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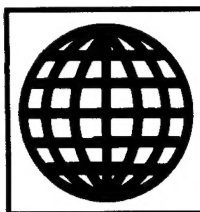

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JPRS-EER-91-004 *11 January 1991*

CONTENTS

HUNGARY

MSZP Draft Program for Party Congress Released

91CH0137A Budapest NEPSZABADSAG in Hungarian 31 Oct 90 pp 10-11

["Excerpts": "The Proposed Program Declaration of the Hungarian Socialist Party"]

[Text] The first phase in the system's evolution, involving the rebirth and transformation of our society, is behind us. Having brokered the administrative, executive and self-governing posts and having arrived at the end of an extended campaign period, there is a temporary lull in the furious political struggle. In such a situation every political organization should reassess its policies and behavior, and elucidate how they can contribute to solving society's most urgent problems and putting an end to the increasingly threatening crisis process. The Socialist Party must do likewise: In accordance with its principles and basic values, it must define its relationship to the past, the future and the present. It is in the interest of this task that we hereby release excerpts of this proposed program declaration, which has been prepared for our upcoming congress.

[Signed] Gyorgy Janosi and Ivan Vitanyi Editors of the program

I. Our Relationship to the Past

1. The Hungarian Socialist Party is the inheritor of the Hungarian socialist movement's democratic traditions; it continues all efforts that have been made in the past simultaneously to fight for democracy and socialism in opposition to the conservative, Fascist and Stalinist dictatorships. It considers among its forerunners the hundred-year old Hungarian social democratic party as well as the even older Hungarian workers' movement, the Galilei Circle, and the socialist left wing of turn-of-the-century Hungarian political life. The party is the beneficiary of the leftist movements during the Horthy era, the socialists faithful to the idea of Popular Front, the March Front, the left wing of Hungary's populists, and the democratic alliance that arose to fight Fascism. It is heir to the left wing of Hungarian democracy revived after 1945, the democratic forces of the Social Democratic and Communist parties. It is successor to the socialists of 1956, Imre Nagy and his associates, who sided with the popular revolution and chose democracy, even if that meant that they had to give up their positions of power. And finally, we are heirs of the reform movement born during the 1960's, which lead, after long and various struggles, to the point where the Socialist Party, formed in October 1989, sided with the thorough transformation of the system.

2. In a political sense, the Hungarian Socialist Party is neither successor nor heir to those parties which, under various names, filled the function of a state-party during the Stalinist period of dictatorship by a party state. It was exactly for this reason that the internal opposition within the MSZMP [Hungarian Socialist Workers' Party] eliminated the state-party, in order to set up preconditions for the rebirth of a democratic left.

3. The Hungarian Socialist Party refuses to equate socialism with the system that ruled in Hungary between 1948 and 1956, and then again between 1956 and 1989. On the contrary, we feel that that system created a pattern of state oppression and exploitation, able to keep itself alive only by stifling democracy and sustaining a one-party despotism. Although in the aftermath of the collapse of the old conservative system, the war and the horrors of Fascism many people were attracted by the Utopian idea of "importing" socialism, the new system did not arise as a result of internal developments. The agreement among the great powers placed Hungary under Soviet control, thereby opening the way to the imperialist export of the Stalinist model.

4. It was during the second half of the 1980s, when the Soviet Union's crisis became evident and the Soviet leadership recognized the severity of their domestic crisis and reevaluated their country's role in East Central Europe, that conditions became ripe for a transformation of the system. As a result, at the May 1988 conference of the MSZMP the most conservative forces, which were ready to put on the brakes, were swept aside, and the road was opened before transforming the system. The new leadership promised greater democracy and a more decisive introduction of market economy, but failed to make a timely realization of the situation, primarily that all of these promises could be fulfilled only within the framework of a complete systemic transformation.

5. It was after the autumn of 1988 that the internal opposition within the party made its independent moves, winning over the decisive majority of the membership and taking over the initiative. As a result of pressure exerted by this opposition, a multiparty system was "declared," the formerly prevailing view of the 1956 revolution was discarded, the negotiations between the ruling forces and the opposition took on a new course, and administrative and legislative conditions for a transition were created. Finally, the opposition forced the holding of the congress which, by disbanding the state-party, made the long process of systemic transformation irreversible.

6. These actions, and the subsequent policies of the new party and government, decisively contributed to making Hungary's systemic change just about the most deliberate and solidly grounded in East Central Europe, while also making it a genuinely peaceful process. The significance of this factor should be neither over nor underestimated. There was no possibility to avoid a change of system; however, the Socialist Party had a decisive role in shaping the way it occurred, as the party gave Hungary its historical opportunity to execute the transformation in the most civilized and thorough manner.

7. The October congress, however, was unable to face the real consequences of the systemic transformation. The leadership, and the majority of members, envisioned a much larger party, with greater material resources and organizational potential, than what actually came into existence. Many thought that, in addition to being able to guarantee the peaceful nature of the transformation, we could also ensure that the Socialist Party would control the process, or at least be a participant of equal rank. The landslide-like acceleration of processes throughout East Europe has also contributed to the fact that the new political forces, in their competition for power, concentrated their criticism on our party, forced it to go on the defensive, and identified it with the past with which it wanted to break.

8. The critical period of the systemic transformation began with the spring elections for the National Assembly, and ended with the autumn elections for local administrative posts. A new political-authority structure came into being; and the Socialist Party, with its 11 percent share of the votes cast and less than 10 percent share of deputies in the National Assembly, found itself in opposition. In spite of these setbacks, however, the Socialist Party remained alive as the sole parliamentary representative of Hungary's social democratic movement, and was able to establish itself.

II. Our Relationship to the Future

1. The Hungarian Socialist Party, opposing all varieties of dictatorship and oppression, considers itself a part of the global movement struggling for democratic socialism and subscribes to the concepts that have been accepted by the parties of the Socialist International.

2. The Stockholm declaration of the Socialist International states the basic principles of this movement. According to this declaration, democratic socialism is "an international movement fighting for freedom, social justice and solidarity." Its goal is the establishment of a peaceful world in which these fundamental values could be realized, in which every individual can live a meaningful life in a way that allows him fully to develop his personality and his capabilities, and in which human and civic rights are guaranteed to him within the framework of societal democracy."

3. Freedom, as conceptualized by democratic socialism, implies not only freedom from political and social oppression, but also freedom from economic subjugation and squalor. Our views on justice compel us to fight for the provision of equal opportunities within society, and the moderation of inequalities resulting from wealth. Prompted by the principle of solidarity, we support modern forms of communal ownership and the broadening of employee participation, and we stand up on behalf of the victims of the transformation to a market economy.

4. Within the socialist world movement, each country and each party must decide for itself what tasks it wants to take on, and in what order. The situation of Hungary (and, to an extent, that of the entire East Central European region) is specific; in a sense, even unique. We cannot copy the specific programs and goals of the socialist movements in Western countries, because we first have to demolish a poorly working social and economic structure, while we also have to recognize our unilateral dependence on the more developed regions of the world. Today our most important task is to catch up with the main trends of historical development, and what makes this possible for us is a transformation to a market-based economy. At the same time, we reject the suggestion that in this period of recession and economic scarcity the Socialist Party cannot pursue a characteristically social democratic course of action. After all, such a course is not simply one of distributing goods in times of plenty, but rather one that implements democracy while also distributing goods, even those in short supply, in accordance to a societal value system. Thus, social democratic policies cannot be dissolved in liberalism, even under the present transitional conditions.

5. While the Socialist Party strives to establish the democratic structural system of a bourgeois society, it rejects the idea that market conditions and private ownership should extend their unlimited rule over all aspects of society, or any utopian concepts related to that view. The party supports the creation of communal property in various of its forms, which strengthen the implementation of solidarity and equal opportunity, and is ready to oppose liberal economic strategies that involve the use of shock therapy. We do not wish to return to the free competition-based capitalism of the previous century (which would place the burden of transformation exclusively on the employees, the less successful entrepreneurs and those layers of society that find themselves in a disadvantaged situation), but to the type of modern society which has been permanently influenced by the decades-long conscientious work of social democrats.

6. The Socialist Party, therefore, is striving to bring about the birth of a West European modern market economy and a democratic society. Its goals include the creation of a societal market economy in which economic democracy connects private and communal property rather than creating conflict between them. It is committed to building a civic society which gives free rein to organizations and autonomous associations aiming to satisfy the economic, social, and cultural needs of individuals and natural corporations. It works to develop a political system which extends the rights and opportunities of democracy to the classes of most divergent circumstances, to the entirety of society.

7. The Socialist Party will, first of all, stand up on behalf of the wage earners, the employees, and members of cooperatives. They are the ones who bear the greatest burden resulting from the present crisis and transformation, and whose future is the most uncertain. The party devotes special attention to those strata of workers, employees, and intellectuals who became disillusioned

by the infighting accompanying the systemic transformation and who, on account of their increasingly difficult living conditions, turned away from political activity. The party will make special efforts to win over those intellectuals who are open to the voices from the left. In the spirit of solidarity and justice, the Socialist Party takes on the task of speaking up on behalf of the increasingly numerous members of society who live near or below the poverty level.

8. According to the concept of the Hungarian Socialist Party, in the Europe of the future each nation would preserve its identity and its historical and cultural traditions; while the increasingly symbolic borders would make it possible for the peoples of Europe to become closer to each other. The security of individual European nations and the stability of the entire continent could be increasingly guaranteed by a system of pan-European economic, scientific, cultural, educational, and human contacts, the full development of democracy in each country, and the full implementation of human rights, among them the rights of ethnic minorities.

III. Our Relationship to the Present

The Process of Systemic Transformation

1. The state of Hungarian society is determined by the transitional conditions of systemic change. Changing the structures of society is not a simple, unitary act; rather, it is an extensive process, both in time and in its details. During the time since the elections have taken place in Hungary, the transformation was accelerated only in the political and administrative spheres; no significant changes have taken place yet in social and economic life.

2. The modifications in our political structure and the composition of administrative elite have not also created democracy's complete organization, only its skeleton. In order for the new structure to be built completely, we need to further democratize our system of political institutions on the one hand, and also to develop a self-organizing "society of citizens" that would provide sufficient background and control for our political democracy. In absence of this, we will continue to be threatened by the survival of that pseudofeudal, caste-ridden and baroque political structure that was present in our society throughout the 20th century. That period was characterized by the rule of a narrow elite that held great concentrated power, directly controlled the bureaucratic machinery, held greater sway over economic life than in the bourgeois societies, and was isolated from the rest of society by sharply defined boundaries or an equally effective vacuum. Careful consideration reveals that the past 40 years' dictatorship of the state-party has by and large inherited these "traditions."

3. For exactly the above reasons, the primary question in the present situation is whether the new government will maintain continuity, or make genuine further progress along the road of democratization. It is in this light that we attribute specific significance to the increasingly frequent pronouncements made by members of the governing coalition that allude to an "ideological restoration," the revival of the Horthy era's ideological attitudes and seem intent on replacing the former state-party's dogmas (Marxism-Leninism) with elements of a "Christian-national" world view.

Systemic Transformation in Economics; Property and Fiscal Reforms

1. The political state that, during the past 40 years, subordinated the entire economic life, the system of monolithic state ownership, and the complete depersonalization of property ownership, did not result in the creation of socialism, but rather in an increasingly inoperative and "impaired" economy and a cul-de-sac of the modernization process. The rapidly growing indebtedness, the similarly growing budgetary deficit, the less and less effective operation, and subsequent collapse, of the CMEA, the spiraling inflation and impoverishment, the compulsion to introduce restrictions, along with many other faulty measures resulted in a deep economic crisis that today represents the greatest problem of today's Hungarian society.

2. Today, reforming our property relations is one of the most important prerequisites for the development of market economy. The Socialist Party takes a stand on behalf of an economy based on a mixture of property ownership, which can be developed along the following lines:

a) The share of state-owned property must be reduced, and its domination eliminated. At the same time, we must recognize the fact that, albeit to a severely reduced degree, state property will remain a significant factor. Therefore, we consider it extremely important that the properties that remain in state ownership be modernized and made competitive. One of the means for reducing the proportion of state-owned property nowadays is privatization. The Socialist Party considers privatization necessary not as an end in itself, but as a tool of economic modernization, and a precondition for the creation of market economy. At the same time, we firmly oppose the reprivatization of state-owned properties, as well as the eradication of distinction between privatization and reparation payments. Any form of reprivatization would evoke new social tensions, contribute to inflationary pressure, and hinder the utilization of domestic resources as well as the influx of foreign capital.

b) We deem it necessary to create new, nonstate-owned enterprises, an increase in the number and strength of small and medium-sized enterprises, and their support with tax allowances and credits. At the same time, the door should be opened to the influx of foreign capital, under conditions that are similar to those applying to domestic investment and enterprise. Among other measures, the state should institute programs designed to

prevent the development of unilateral dependencies, and strive to bring about an equal presence of various investment groups.

c) The Socialist Party assigns special importance to employee ownership and the existing and proposed forms of communal ownership, deeming it desirable that the employees' opportunity to become proprietors become a right of all citizens. An indirect framework for this is created through properties and enterprises owned by local government bodies, communities, settlements and associations, along with pension funds and investment associations. The direct form of ownership by citizens may result from the transformation of state-owned properties into share-holding companies, in such a way that various advantageous conditions (credit systems, etc.) promote the development of employee ownership.

d) The socialists' position on land ownership is in harmony with their position on property in general. We oppose all forms of reprivatization, and the forceful disbanding of effectively operating agricultural cooperatives. At the same time, we support various forms of compensation and indemnity payments, and the acquisition of land properties by those who work in agriculture. It should be decided by them, whether they wish to cultivate their land on their own, within the framework of cooperatives, or in a form that combines aspects of the two versions.

3. As the Socialist Party sees it, a society-oriented market economy means not only that a state-created safety net protect those who end up as casualties of a performance-based competitive process; rather, it should strive to resolve the tension existing between the demands of economic rationality and social justice, by directly or indirectly turning more and more of society's members into genuine proprietors. This is the reason why, on the one hand, we oppose an uncontrollable process of privatization, while we also resist attempts, based on partisan or other considerations, to use privatization as a means by which transformation could be hindered.

4. An extremely important strategic task of systemic transformation in our economic life is to rapidly complete the reform of our monetary system. In this regard, the Socialist Party makes every effort, in the National Assembly as well as in local governments, to promote the creation of a stable and unitary taxation system and, as organic part of that system, the regulation of local taxes in a manner that would pay close attention to the capacities of employees and small entrepreneurs. We consider it a fundamental social issue to create firm bases for the economic independence of local governing bodies.

5. The socialists consider it a fundamental national goal to seek and find the means for cooperating with our neighbors, with whom we have maintained trading and natural ties for centuries. In addition to a rapprochement among the East European small nations, it is especially important to rearrange our economic contacts with the peoples of the Soviet Union. While some of the Soviet resources will continue to be indispensable in the future, the present transformation of the Soviet Union holds out great opportunities for broadening our markets.

The Management of Economic and Social Crises

1. In the view of socialists, the first and most fundamental task in solving the present crisis is to stop inflation. At this time, we still have a choice between controlled and runaway inflation, although a steep inflation can no longer be avoided. With the proper measures, however, we could prevent the rate of this inflation from becoming uncontrollable. This calls for policies that prompt savings, enterprise, and the increase of domestic supply.

The accelerating inflation burdens an increasing proportion of the population. The most painful hardship has to be faced by the employees and wage earners. We are cognizant of the fact that, because of the country's present situation, all price hikes cannot be fully compensated for in the form of wage increases. We consider it a manageable task, however, to make sure that the minimum wages and the applicable pension rates, family allowances and other social allocations maintain pace with the rate of inflation.

2. We hold the view that it is in our elemental interest to maintain the country's solvency. However, our cooperation with the IMF and the World Bank is aimed primarily at preserving our solvency; only to a lesser degree does it help our country in obtaining foreign resources that could contribute to the rapid and effective transformation of our economy. Thus, we consider it necessary to develop contacts with those new fiscal and economic organizations that were created with the specific aim of assisting this region of Europe.

3. The Socialist Party is aware of the fact that the transformation of our economic structure brings with it a growth of unemployment; nevertheless, it fights to ensure that such unemployment remain below the level of acceptability. The socialists demand the creation of national and local programs that create new work opportunities, or assist workers in finding new jobs through the use of modern retraining methods. We also consider it an absolute necessity to introduce a program of unemployment assistance that ensures the survival of those who are temporarily out of work.

4. As a result of the crisis, the impoverishment of the population continues. Compulsory and general insurance should not become devalued, but neither should it become fragmented as insurance for the poor and insurance for the wealthy. We urge the development of complete self-management for the system of social insurance, that is, its removal from government oversight and its placement under parliamentary control. The interests of employees should be decisively represented in that organization.

5. We support the radical transformation of health facilities and their relations with other aspects of society. In view of the expected further deterioration of health conditions, we find it unacceptable for the government to try to escape its responsibility to finance this sphere. It cannot be permitted that expenses arising from the ageing of the population and those brought on by the increasing cost of health care be placed entirely on insurance companies and local government agencies.

6. The Socialist Party urges the introduction of social legislation that is indispensable for the management of the present crisis, along with the clarification of social responsibilities resting with the national budget and with local government agencies. The socialists support the formation of self-help organizations by the citizenry, but they protest any attempt to burden those organizations with tasks that should be performed by the state. We attribute decisive importance to extra assistance extended to those who are disadvantaged, but we reject any attempt to base our entire social policy on assistance to the poor.

Education and Cultural Life

1. The economic recession and social crisis of the past decade left us with deteriorated cultural facilities, an impoverished and degraded teaching profession, and dwindling state resources. Now, the dilapidated edifice of education and culture is threatened by newer shocks. Similarly to the administrations of the past, the conservative forces recently elected to govern are planning to enforce the hegemony of their own ideas, and replace old barriers with new ones that would restrict the freedom of thought, the press, and our entire cultural life. They would apply a conservative, Christian-nationalist coat to cover the multicolored actualities of culture, education, and the arts. At the same time, the growing economic and social polarization, the sharpening competition for success and survival, the massive impoverishment, the reduction in the state's responsibilities, and a cultural supply that has been made shallow by the disappearance of support, threaten to erode equal access to education and culture and lead toward a situation in which more and more of our citizens will be deprived of their cultural rights.

2. The program released by the government proclaims that the solution lies in changing the internal pattern of public education, and the introduction of a new structure to replace our compulsory eighth-grade school attendance. In the view of the Socialist Party, the structure of our schooling system can and should be changed; however, that is not the central issue. The most severe problem of our public education, and the primary cause of its crisis, is the deplorable state of our school network, the poverty and operational difficulties of our schools, together with the low salaries, existential problems, and loss of prestige experienced by our teachers.

3. The socialists feel that free public education and the guaranteeing of low-priced school supplies are the fundamental preconditions for an equality of opportunity. It is the task of local government bodies to offer quality and free educational opportunities to those who wish to study in state schools.

4. In order to solve the problems in that sphere, the Socialist Party urges the creation of legislation for post-secondary education. Such law should guarantee the autonomy and self-government of universities and colleges when it comes to teaching, research, organizational life, and management. When it comes to the faculties at universities and colleges, all efforts should be made to guarantee professionalism and democracy.

Other demands include those for the introduction of a more flexible educational structure, the formation of alternative training programs, the broadening of offerings and student choice, and the elimination of unnecessary requirements.

5. The socialists support those efforts that aim toward reducing the financial burden on the families of university and college students, and call for an appropriate system of scholarships and student loans.

6. At forums afforded by local governmental bodies, the Socialist Party will fight for the survival, or establishment, of all institutions, structures and undertakings (libraries, cultural centers, museums, reading circles, etc.) that would provide a site and a framework for the cultural communities of our citizens, guarantee opportunities for learning and cultural activities, and preserve local traditions. The socialists support the revival, under new conditions, of the cultural circles that were organized by the workers themselves and were artificially ruined during the 1950's.

7. The Socialist Party sees a serious threat in the trivialization of cultural offerings, the retreat of valuable culture, and the triumph of shallow cultural products. At the same time, it disagrees with any attempt to restrict or proscribe the entertainment industry that satisfies popular demand, as long as it does not infringe on our laws and public morality. Even under the new market-based circumstances, the state must not evade its responsibility for the maintenance of universal and national culture.

8. The Socialist Party agrees with the proposition that the most important national institutions of cultural-scientific life and mass communication should be retained in community ownership and placed under suitable social supervision. These institutions should ensure equality of opportunity when it comes to the dissemination of information and the use of public forums.

Protecting the Interests of Employees

1. Throughout history, socialist and social democratic parties have been in very close contact with the trade

unions. For the trade union movement, the most dangerous foe proved to be the party-state, which infiltrated its ranks and robbed it of its strength from the inside.

2. These days the trade unions are also going through a severe crisis. Still, signs of their revival are also evident. Today's trade union movements are multicentered and structurally diverse. Under the circumstances, the Socialist Party must make every possible effort to promote the collaboration among the various trends and branches of the trade union movement, and represent the movement's interests in local governments and in the National Assembly.

3. Workers' councils are an important new (or renewing), although extremely contradiction-ridden, institution of the labor movement. It contains various trends: progovernment and dissident elements, those that subscribe to corporative principles and adherents of workers' self-government. The Socialist Party supports these new organizations, and opposes any attempts to manipulate them on the basis of partisan politics or administrative considerations.

IV. Our Relationship With the World and With Europe

1. Our national interests are best served when the concrete steps of Hungary's foreign policy are in harmony with opportunities determined by global realities and the country's existing circumstances. It is also crucial for Hungary's system of international contacts to be balanced, so that the country be able to avoid dependency on any other country or group of countries. Giving priority to national interests over partisan considerations is an indispensable precondition for the effectiveness of Hungarian foreign policy and the nation's favorable international image.

2. The systemic changes in Hungary and in East Central Europe, the developments in the Soviet Union, and the foreign policy presently advocated by Soviet leaders, created conditions much more favorable for Hungarian foreign policy than those that prevailed in previous years. In the view of the socialists, the present Hungarian Government does not use the improved opportunities, resulting from the greater freedom of action, to the best interest of the nation. When it comes to contacts between Hungary and the developed countries, the government harbors false illusions while also neglecting to take sufficient care to avoid unilateral orientation.

3. The Hungarian Socialist Party deems it to be a task of extreme urgency to improve the relationship between Hungary and its neighboring countries. What this calls for, before anything else, is for us to rise above the injuries of the past and emphasize our shared or similar interests. From the point of view of national interests, the socialists consider it especially urgent to eliminate the tensions that arose between Hungary and the Soviet Union. Taking advantage of the Soviet leadership's readiness to accept such an approach, relations between the two countries should proceed on new bases, along the principles of complete equality. This, of course, also means that, in accordance with the principles of reciprocity, the Hungarian partner should respect the Soviet Union's interests and national dignity.

4. In the view of the socialists, Hungary's economic and social development cannot be accelerated without the country's integration into Europe. In order to accomplish this, equal efforts should be made to broaden our contacts with the developed European nations and those beyond the oceans.

5. The Hungarian Socialist Party looks at the continuing existence of military blocks as a remnant of the cold war; it considers it necessary to gradually transform, and eventually disband, these blocks, and replace them with an all-European security system.

6. In its struggle for realizing the goals of democratic socialism, the Hungarian Socialist Party counts on the assistance and solidarity of the international social democratic movement. It considers it important to maintain regular contact among the region's party leaders, parliamentary groups and local organizations. In every way possible, the Hungarian Socialist Party wishes to participate in the activities of the international social democratic movement. It is confident that its domestic activities and the broadening of its international participation will, in the not-too distant future, make it possible for it to become fully accredited member of the Socialist International.

POLAND

Solidarity To Field Parliamentary Candidates

91EP0175D Warsaw RZECZPOSPOLITA in Polish 18 Dec 90 p 2

[Article by Urszula Rzepczak and Beata Jaworowska: "The NSZZ [Self-Governing Independent Trade Union] Solidarity in the Future Sejm"]

[Text] For some time now it is expected that in the coming parliamentary elections the NSZZ [Self-Governing Independent Trade Union] Solidarity will offer its own candidates. Specific decisions on this matter will be taken at the January congress of the National Solidarity Commission. So far several proposals have been made.

Some unionists champion a broad representation of Solidarity in the Sejm, which would make Solidarity look more like a political party than a movement. In this case, however, as Lech Kaczynski, one of Solidarity's vice chairmen, claims, "considering the pluralist nature of Solidarity, it would be difficult to preserve unity." Ewa Lewicka, vice chairperson of Solidarity in the Mazowsze Region, said, "The most favored proposal is having a group of 30 to 40 deputies represent Solidarity in the Sejm; these would be chiefly longtime Solidarity activists

as well as experts in various fields, such as labor law and social policy." This concept is also supported by L. Kaczynski.

In the opinion of Deputy Andrzej Milkowski, the Solidarity candidates for Sejm deputies should come from workers representing a broad spectrum of views, ranging from extremely conservative through democratic to leftist. Each voivodship should be represented by its own Solidarity deputy, and the group of Solidarity deputies should number not more than 60.

It is expected that Solidarity candidates for Sejm deputies will be nominated through an internal campaign. The rules for that campaign have not yet been determined. Quite a few large plants want to nominate their own candidates. The prevailing opinion, however, is that the nominations should be made at the regional level, with the National Solidarity Commission to be consulted.

The formula to be adopted by Solidarity in the elections and the nominators and nominating rules will be determined by an specially established commission, with Michal Boni having been elected its chairman.

'Democratic Action' Registered as Party

91EP0175B Warsaw RZECZPOSPOLITA in Polish 18 Dec 90 p 2

[Article by Jakub Borowski: "ROAD [Citizens Movement Democratic Action] Is Registered: A New Political Party"]

[Text] On 17 December at the Warsaw Voivodship Court the Citizens Movement Democratic Action [ROAD] was registered as a political party. The application, signed by 21 persons, was submitted by Barbara Labuda, Andrzej Wielowieyski, and Henryk Wujec. In the afternoon they took part in a press conference at which comments on the new party's future were also voiced by Halina Bortnowska, Zofia Kuratowska, and Ludwik Turko.

The decision to formally transform this movement into a party was taken in order to preserve identity and acquire the status of a legal entity.

"We aspire to build a united, democratic political party desiring to win over the broadest possible electorate," the declaration said. The desire to win over "the broadest possible electorate" is emphasized twice. Forming the party is seen as an opportunity to win over adherents from among youth, women, blue collar workers, farmers, and small town inhabitants.

Joining the Democratic Union is viewed by members of the Founding Council as a continuation of the Krakow alliance with the Forum of the Democratic Right. They do not fear a weakening of ROAD's role as a result of its joining the union, because they count on a coalition-style, democratic manner of building it.

Andrzej Wielowieyski emphasized the origins of the new party.

"We are certain that we represent the very core of Solidarity."

That core consists of, in the senator's opinion, aspirations toward the country's independence, concern for respecting the rights of man, restructuring and renewal of the state, emphasis on the social safety net, and orientation toward a strong and independent trade union movement of both employees and employers.

Among civil rights the principal role is played by the possibility of benefiting from democratic institutions.

In the opinion of Henryk Wujec, the transformation of Solidarity into a movement promoting the election of Lech Walesa to the presidency proved to be so effective because of its populous and ramified branches covering the entire country, whereas ROAD has a membership of only about 10,000.

Winning over a broad electorate, referred to in the declaration, will be no easy matter. ROAD does not have the support of farmers, because it declared its support for the policies of the government of Tadeusz Mazowiecki.

The personality of the prime minister, who has won scanty support in the recent elections, will not, in the opinion of the party's founders, alienate potential new members, because he attracts adherents of toleration, of evolutionary and constructive changes.

Women's issues were absent from the electoral campaign, with candidate Cimoszewicz being an exception, although women account for more than one-half of the electorate. ROAD intends to be concerned for the women threatened by the coming market economy with its attendant growing unemployment. The new party also intends to include in its program a position on the abortion dispute; as to what position, that will be known after its congress.

ROAD expects to gain more votes in the coming parliamentary elections than those received by Mazowiecki. Hence the new party's interest in youth, considering that young people had voted in substantial numbers for Tyminski because their problems had not been addressed in the electoral campaign.

Younger members of ROAD intend to establish a network of debating clubs throughout the nation. These clubs would be open to teenagers who are below the voting age or cannot join the party. The existence of political needs among youth has been perceived by neither of the two main orientations of Solidarity.

On the day the new party was registered, Zbigniew Bujak and Wladyslaw Frasyniuk campaigned for adherents among young people and workers in Sosnowiec and Wroclaw.

Red Cross Provides Assistance for Lithuania

91EP0175E Warsaw TRYBUNA in Polish 18 Dec 90 p 3

[Article by (DB): "30 Tons at First"]

[Text] "A shipment of 30 tons of baby foods, powdered milk, varieties of porridge, candy, and clothing left last Monday for Lithuania. This first shipment by the Polish Red Cross is destined in part for children's homes in Lithuania and in part for the Lithuanian Red Cross. The Polish Red Cross does not distinguish between aid for, e.g., Poles in the Soviet Union and aid for other needy people. Such is the operating principle of the Red Cross," said Izabela Gutfeter, Secretary General of the Polish Red Cross. "The local branches are the ones best informed about the needs."

Purchasing food and clothing instead of collecting them will assure sending the aid to the designated recipients. That is because, according to Izabela Gutfeter, the collecting of food donations is too troublesome and the Polish Red Cross cannot either commence centralized collection of clothing donations because it lacks the facilities for the storage and sorting of garments. Likewise, the Polish Red Cross will not mediate in sending parcels to the Soviet Union.

Polish Episcopate Letter on Anti-Semitism

91EP0175A Warsaw ZYCIE WARSZAWY in Polish 19 Dec 90 p 5

[PAP article: "The Episcopate on Anti-Semitism: The Blood Shed and Sufferings Should Unite, Not Divide Us"]

[Text] "We are aware that many of our compatriots still are nurturing the memory of the wrongs and injustices perpetrated by the postwar communist governments in which persons of Jewish origin had participated. But we must acknowledge that the motive behind the actions of these persons was certainly neither their origin nor their religion but the communist ideology, which has besides caused many injustices to Jews themselves," declares the pastoral letter of Polish bishops.

The pastoral letter, prepared during the 244th plenary conference of the Episcopate of Poland in Jasna Gora, will be read to the faithful on 20 January, on the occasion of the 25th anniversary of the Vatican Council's *Nostra aetate* declaration.

The bishops cite in that letter passages from the Papal Homily on Dialogue Between the Church and Judaism, recalling, among other things, the special ties linking Poles to the Jewish people.

The letter declares, "We also sincerely deplore all the instances of anti-Semitism ever perpetrated by anyone on Polish soil. We are doing this in the profound belief that any manifestation of anti-Semitism conflicts with the spirit of the Gospel and, as recently stressed by John Paul II, 'completely contradicts the Christian vision of the dignity of man.'

"While expressing our pain at all the wrongs and injustices caused to Jews, we must mention that we view as unjust and unfair the frequently voiced notion of so-called Polish anti-Semitism as a particularly menacing form of anti-Semitism per se, along with the not infrequent linking of concentration camps to not their actual staff but Poles in German-occupied Poland. When speaking of the unprecedented extermination of Jews, the fact should be borne in mind, let alone not glossed over, that Poles, too, as a nation, were among the first victims of the same criminal, racist ideology of Hitlerite Nazism.

"The same soil which had for centuries been the common fatherland of Poles and Jews, and the mutually shed blood and sufferings, and mutually experienced injustices, should unite, not divide us," the bishops conclude in their letter.

CZECHOSLOVAKIA

US Professor Zeleny Examines Privatization Process

91CH0187A Prague ZEMEDELSKE NOVINY in Czech 26 Nov 90 p 5

[Interview with Professor Milan Zeleny, by Stanislav Ptacnik and Vladislav Fuka; place and date not given: "Privatization Cannot Be a Mindless Packaging Exercise"]

[Text] In the almost six months that he has been in Czechoslovakia, following 23 years in exile, Professor Milan Zeleny of Fordham University in New York's Lincoln Center has become a highly sought after lecturer in the fields of organization, administration, and enterprise management. He has found especially grateful and attentive listeners among agricultural managers. He has completed a demanding schedule of lectures, discussions, consultations, and visits. ZEMEDELSKE NOVINY conducted the first interview with him ("Thin People Don't Need Suspenders", 21 June 1990 edition). Professor Zeleny himself has said that this interview set the tone in many respects for his visit. Perhaps for this reason he consented to another interview just before his departure for the United States.

[ZEMEDELSKE NOVINY] Professor, the main objective of your stay has been to acquaint yourself with the organizational and administrative experiences of Czechoslovak agricultural enterprises. What picture will you be taking back across the ocean with you of the sophistication of our agriculture? What here has particularly struck you?

[Zeleny] During my stay I have visited a number of agricultural cooperatives: Trinec, Bruzovice, Prace, Slusovice, and Krasna Hora nad Vltavou. I have also studied in detail materials related to privatization preparations at the Chyne and Suchdol cooperatives. I must confess that I focused my attention on the better cooperatives. This does not mean, though, that I have no idea about how the mediocre or poorly managed cooperatives are run. I have been following Czechoslovak agriculture for a long time, I grew up in the country, and I experienced collectivization personally as a youth. Unfortunately, our family was one of those adversely affected.

I of course have many comments. What interested me in particular? For example, at Krasna Hora in Pribram I saw a fully computerized cow barn. I am from America, after all, but I found this fantastic. The technology meets the needs of the livestock, and the machines are not complex. Each cow gets an individual fodder dose based on lactation and use values, so one person can take care of hundreds of cows. High labor productivity, solid use values. In Slusovice I was most impressed by the vertical integration system they are setting up. This involves sophisticated market research to determine production levels (of yoghurt for instance). Everything else, the number and type of livestock, fodder requirements and doses, planting plans for plant production, are derived from the sales projection. This is impressive because it does not come up from below, it does not depend on the play of market forces. Quite the contrary, nothing is produced that is not "already sold". Nowhere else in the world is agriculture approached in this manner. The principle, though is well known. One practitioner has been, and continues to be, Mr. Bata.

[ZEMEDELSKE NOVINY] What do you consider to be the pluses and minuses of Czechoslovak agriculture?

[Zeleny] Forgetting for a moment that collectivization was conducted in an unacceptable manner, and looking at the consequences through the eyes of an agricultural economist, the current advantages are obvious. They include the size of the enterprises and their hidden potential productive strength, comprehensiveness as an essential condition for the transition to a modern, integrated agrocomplex, acceptable technical discipline, highly trained managers. This is a foundation to be built upon.

The problem with the current agricultural cooperative is not so much its size as ownership relations. Collective lack of responsibility, the alienation of people from property, from the enterprise, the lack of connection between compensation and work effort. This has resulted mostly from a significant government presence, the interference of the center in enterprise management. However, I do not consider any of these obstacles to be insurmountable.

[ZEMEDELSKE NOVINY] The cure for many of these ills should be full privatization. Everyone here defines this term differently, however. Many owners are demanding the return of their land and machinery, and want to begin to operate independently.

[Zeleny] I have in mind a slightly different form of privatization. Privatization, after all, does not have to involve only the physical breakdown and parcelling out of land, buildings, machinery and livestock. Generally privatization means the transfer of capital assets and managerial functions to private hands. The purpose of the transfer is to improve the efficiency, stability, and long term profitability of the enterprise. The basic idea of privatization, not only in agriculture, but throughout the economy, should be the "making private" or "ownerizing" of production resources and decision making, while retaining all the advantages of vertical integration, in other words combining entrepreneurial activity with the economic advantages of larger entities. While, for example, the German firm BMW is currently privatizing itself by buying up stock and offering it to its own employees on favorable terms, this certainly does not mean that its managerial, organizational, or other structures will be broken up.

[ZEMEDELSKE NOVINY] Land management, though, does have its own peculiarities...

[Zeleny] Of course. But a farmer does not have to leave a cooperative and return to archaic forms of management just to get back his land and other material contributions. This is especially true under current conditions when he will lack, as it were, everything: materials, equipment, buildings, services, even any kind of guaranteed market. I consider a more promising solution to be the transition of today's cooperatives to private enterprises of a participatory nature. These could be based on shares obtained by current members. The number of shares given to each member might depend on earlier contributions of land or equipment, the number of years worked, or even be available for outright purchase.

I consider this type of transformation of agricultural cooperatives to private partnerships or corporations to be the future of agricultural privatization in Czechoslovakia. A market for the shares would develop within the corporation. This would allow them to change hands among the individual members of the private firm and their resale back to the cooperative upon departure. While the current one person, one vote rule applies in cooperatives, the rule in corporations would be one share, one vote. This form is far removed from a cooperative system based on hourly workers or "semiowners" limited by the government, which prevails at current JZD. Other forms of privatization, including family farms could, of course, coexist with this technique.

[ZEMEDELSKE NOVINY] In conjunction with the draft land law, the view is often heard that the only owners are those who own land. Other cooperative members or state farm employees, in this scenario, would have no right to participate in the upcoming distribution of property, nor would they be able in the future to participate in decision making by "land owner cooperatives".

[Zeleny] No sane economist could agree with this view. In America every trained economist learns in the first lecture of the first course that capital is formed by land, by labor, by knowledge (materialized and capitalized as inventions and managerial activity), and by information. It is no accident that people speak about the information revolution.

But we are speaking about land. Land by itself can never generate a living. It can only do so in conjunction with human labor. Man and the land are inseparable entities. This country has exhausted land and exhausted people. How to revive and maintain soil fertility? How to renew and maintain the energy, motivation, creative thinking of the people, and their love of the land? Nor can these two questions be separated. Metaphors about dark forces, old structures, or the mafia do not help resolve them. Hatred between owners and non owners cannot be allowed to become an issue, because it cannot form either a relationship to the land, or interpersonal relationships, especially in agriculture.

[ZEMEDELSKE NOVINY] Returning to privatization and the transition of the sector to a market economy. Are we, in your opinion, on the right track?

[Zeleny] Senior Czechoslovak representatives frequently speak about a market, but within enterprises they want to have wage based relationships, management by decree, supervisory councils named from above. They either do not know about, or underestimate, the principle of the internal enterprise market, and do nothing to facilitate its creation. However, this mutual accounting for products and services amongst groups of workers, workshops, and individuals is a desirable principle to apply both in agriculture and industry.

[ZEMEDELSKE NOVINY] Is it not also true that it is an important condition for the success of the privatization process?

[Zeleny] Exactly. It must be realized that once self regulation is attributed as an advantage to a market economy, such self regulation must function both outside and within an enterprise. A number of agricultural cooperatives have operations and work places that could be privatized right now. In other instances we have to create favorable conditions. In Slusovice, for instance, truck drivers, vegetable production centers, restaurants, and various service providers have been privatized. At the same time the economic, sales, and production ties to the "mother" enterprise remain as long as they remain more favorable than ties established with other economic entities. The result is a natural division of economic activity that could not be thought up by even the best economist.

This is, qualitatively, completely different than a ministry decreeing and then supporting the breaking up of a cooperative. It is also different that the sale at auction of businesses to new owners at a market price, which is supposed to be the main mechanism of small privatization.

[ZEMEDELSKE NOVINY] Does this mean that you do not agree with small privatization in the form proposed by Ministers Klaus and Jezek?

[Zeleny] I don't happen to agree with them. After all, what we want is for small businesses to actually become entrepreneurial. But what are we doing? We are "confiscating" most of the savings of these entrepreneurs and putting them in government coffers. This is a great way to freeze entrepreneurial activity for quite some time. Money works best in the hands of the individual entrepreneur. In the government treasury it is dead, and what is more, it can be used to purchase oil, consumer goods, and to pay unemployment compensation. In fact, by intervening this way in the natural course of events we are unnecessarily provoking just this unemployment. After all, unemployment is above all a consequence of specialization, and thanks to the auctions we will be putting great numbers of specialists on the streets. To say nothing of the fact that we will be liquidating an already restricted range of services, replacing them with various

arcades and videocassette rental stores. And how do you prevent a foreigner with hard currency from backing a domestic buyer, when such attractive properties can be had for a song?

[ZEMEDELSKE NOVINY] How, then, would you organize small and large privatization?

[Zeleny] Instead of the anonymous coupons that Mr. Klaus wants to sell for a modest fee, I would give the first opportunity to employees. If, after all, there is no legal owner, then the employees have the greatest claim to ownership. Why? They have a right to the firm in the sense of an entrepreneurial experiment, as "compensation" for years of work and effort. If they fail, the firm will go bankrupt, or someone more capable will take it over. In terms of the actual privatization procedure, there are a number of possibilities. These include transferals free of charge to private hands, various short term and long term loan arrangements, installment payments, tax advantages, cash sales. It always depends on the specific situation, local conditions. There is no universal prescription.

[ZEMEDELSKE NOVINY] So we are not on the right track?

[Zeleny] I am convinced that you are not. And I am not the only one. The senior economists should above all realize that prosperity, for a business or a country, does not come from financial flows, but from freeing up entrepreneurial initiative. Only if enterprises do well will they be able to pay high taxes. Restrictions are of course necessary, but they cannot be allowed to constrict development. "Klaus's boys", though, do not take such criticism seriously. Instead they label me as a Marxist and a demagogue. If they come to adopt modern trends in capitalist business with this attitude, then I would by no means be opposed...

[ZEMEDELSKE NOVINY] In Czechoslovakia we are privatizing mainly government property, and we have our own experiences with employees of these firms, especially in retail trade. Do you think one can wave a magic wand and change their behavior?

[Zeleny] Those are two key questions. We must first define clearly what is the government? Is it some kind of external, superowner, or is it, in the end, all of us? When starting private enterprise, after all, it is not a good idea to hang around its neck sins that stem to a great extent from shortcomings in the previous system. Either we give people in a market economy a chance and our trust, or we have to face the fact that we brand ourselves as a nation of thieves and black marketeers. I even think that a very necessary role for leading government officials is to support the moral and ethical aspects of private initiative.

[ZEMEDELSKE NOVINY] The question is often posed about enterprises that are in debt. In agriculture this relates to poorly run cooperatives and state farms in border regions. How to privatize these operations if no one is interested in them?

[Zeleny] To whom are they in debt? The government?. No offense, but this government continues to behave abominably, even after the revolution. Despite the fact that it has confiscated significant personal property, either directly or indirectly, by levying high taxes and paying low wages. If someone makes you pay through the nose for decades and does not allow you to earn money, then that person accumulates great wealth. If we accept that we all are the government, then we are in debt to ourselves. Why not write off those debts, then? What is the purpose of constantly shifting money from one pocket to another? This is not the way to really start private enterprise.

[ZEMEDELSKE NOVINY] In conclusion, let's return to agriculture. Do you foresee future developments here darkly as well?

[Zeleny] Here as well there are certain obstacles and dangers, because there are influential political groups who again are interfering in the affairs of agriculture and cooperatives, forcing them to accept various administrative decrees. My opinion is that the government should be mature enough to allow cooperative members make their own decisions. In the end it is the farmers, not government bureaucrats, who control our food supply.

[ZEMEDELSKE NOVINY] However, if we compare the results of our agriculture with those of West Germany or Austria, the score is roughly five to zero in favor of smaller entities...

[Zeleny] Let me repeat. We are not bad because we do not have small farms, but because people in the cooperatives have no feeling of ownership. German agriculture has been evolving in another direction, and it has been a natural development. There as well the trend is towards larger farms but the process is a slow one because private ownership traditions are exceptionally strong. Their current productivity does not stem from the size of their farms, but from 40 years of private enterprise, functioning services, and a perfect infrastructure. The opposite is true here. We have the foundation of an organizational structure that the West aspires to, but we lack the driving force of ownership and profits.

[ZEMEDELSKE NOVINY] So you do not think it out of the question that we might eventually be able to compete with Western farmers?

[Zeleny] We are already competing with them... though it is more accurate to speak of kowtowing and selling out. My personal opinion, though, is that Czechoslovak agriculture, after undergoing a stage of internal transition, can find its place in the European market. Our leading firms will soon be able to compete with the West in terms of quality and costs. We cannot, however, go backwards, we have to take a shortcut to the European summit. The current period offers a unique chance to accomplish this.

[ZEMEDELSKE NOVINY] Thank you for the interview.

Legal Provisions for Private Enterprise Clarified

91CH0080B Prague PRACE A MZDA in Czech Aug-Sep 90 pp 35-54

[Explanation of legal regulations for private enterprise by Dr. Jiri Maly, Dr. Marie Souckova, Attorney Jan Prib, and Attorney Jan Ryba, Federal Ministry of Labor and Social Affairs]

[Text]

Legal Regulations for Private Entrepreneurs, With a Commentary

Commentary on the Ruling on the Remuneration of Employees in Citizen's Private Enterprise

In connection with the Law on Citizen's Private Enterprise, the Federal Government issued Statute No. 121/1990 Sb. [Collection of CSSR Laws] on Legal Labor Relations in Citizen's Private Enterprise, and the Federal Ministry of Labor and Social Affairs issued Ruling No.135/1990 Sb. on the Remuneration of Employees in Citizen's Private Enterprise.

1. The CSFR Government's statute on the legal labor relations in citizen's private enterprise, which came into force on 1 May 1990, among other things deals with some questions on remuneration in Sections 9 to 13 that differ from the Labor Code. Above all, in Section 4 the government statute establishes that the provisions in Section 111, paras. 2 to 5, Sections 112 to 113, Section 114, paras. 1 and 3, Section 116, paras. 1 to 3, Section 118, and Section 119, para 1, last sentence of the Labor Code, do not apply top the legal labor relations between the entrepreneur and his employee.

In the near future it is expected that a substantial part of workers' wage claims will be established, or agreed, in branch and enterprise collective work contracts, so that the law will only regulate the most basic wage-related legal practices. Up till then, the entrepreneur is obligated to provide wages according to the universally binding wage regulations, and internal wage regulations, collective work contracts and employment contracts must also be in accordance with the wage regulations. Similarly, other settlements of cash value, benefits in kind, and other noncash settlements may only be provided if the universally binding legal regulations permit it.

A significant provision is Section 9, para. 2, on the guarantee of wages. The employee is guaranteed the right to the basic wage rate according to the relevant wage regulation (i.e., Section 13 of the FMPSV [Federal Ministry of Labor and Social Affairs] Ruling on the remuneration of employees in citizen's private enterprise) and to wage supplements stipulated by the wage regulation, irrespective of how successful the enterprise is. It is not possible to agree to a wage in an employment contract that is lower than stipulated in the wage regulation, but it is possible to agree to a wage in the employment contract that is higher than the guaranteed wage.

Remuneration for overtime has been reregulated (compare commentary below). According to Section 11 of the government statute, the entrepreneur primarily provides the worker with a supplemental payment to his attained wage for overtime work. However, the entrepreneur may arrange with the employee to provide him with extra vacation time as an alternative to the supplemental payment. Such vacation time must be provided to the worker no later than three calendar months after the overtime has been performed, but a longer time may be agreed. Provisions in Section 116, paras. 4 to 6, of the Labor Code continue to be valid.

In Section 13 the government statute also creates the prerequisites for the option to establish personal accounts for managers or other employees through whom the entrepreneur executes his business activities. According to Section 9, para. 2, of the government statute, it is not possible to transfer the so-called guaranteed wage to a personal account. The conditions are defined more precisely by the wage regulation (compare commentary below).

2. The Ruling of the Federal Ministry of Labor and Social Affairs on the Reimbursement of Employees in Citizen's Private Enterprise, which came into force on 1 May 1990, applies to all employees in laboring occupations, technical workers, and/or commercial operations workers employed by an entrepreneur who employs no more than 200 workers. The above-mentioned wage regulation thus regulates reimbursement in smaller private enterprises, where there is no great division of labor, and where employees frequently alternate individual work activities. The relatively succinct structure of the statute and, in particular, a simple rate system answers this purpose. During this period one cannot realistically expect that there will be private enterprises larger than those defined in the statute. But if they were to be established, it would be possible to apply suitably adapted former universally binding wage regulations—i.e., the decrees of the Federal Ministry of Labor and Social Affairs of 12 September 1984 on the reimbursement of technical workers in the version of later regulations of 2 September 1985 on the reimbursement of commercial operations workers, and decrees by individual branch ministries on reimbursement of laborers—for the reimbursement of employees in such enterprises. However, in 1991 it is expected that new universally binding wage regulations will be published, which will also settle the reimbursement of employees in large privately owned enterprises.

The provisions in Section 2 of the statute deal with the basic rule for placing the worker in the appropriate rate category according to the Collection of Rate Category Features and the examples of work activities, which form an appendix to the statute. Based on the type of work agreed in the employment contract, and based on a comparison of the primary type of work performed with

the features and examples of the work activities, he includes the employee in the appropriate rate category. All work activities (technical work, manual labor, commercial operations) are divided into only six rate categories, whereby the individual rate category always approximately refers to the same degree of qualification, measure of responsibility, exertion, and difficulty of the work. In respect to managing positions, the entrepreneur independently stipulates what the work will entail.

If, by exception, the entrepreneur cannot reliably include an employee in the rate category because, for instance, it is a totally new activity, the entrepreneur will temporarily choose a specific rate category for this activity, and will submit a proposal for inclusion to the appropriate Ministry of Finance, Prices, and Wages of the Republic. This proposal will include a description of the work activity, the name and number of the rate category, and the conditions under which the named work activity is performed.

I would like to note that the entrepreneur has the authority to stipulate specific qualification and education prerequisites as well as the length of professional experience. This means that when an individual rate category is stipulated as requiring specific educational qualifications, this is merely intended as a guideline. The length of professional experience is not mentioned at all. The situation is different if special universally binding legal regulations firmly set qualification prerequisites (e.g., reaching a specific age, or passing an official examination, etc.) for the execution of some work activities and functions. In this case the entrepreneur is obligated to observe the given provisions of the special regulation when including an employee in the rate category.

The entrepreneur may come to an agreement on wage conditions with the employee in an employment contract (compare Section 29, para. 2, of the Labor Code) or he can, in accordance with the Ruling, regulate the conditions of remuneration through an internal wage regulation, or these items may be agreed in a collective work contract (compare Section 9, para. 1, of the statute on legal labor relations in citizen's private enterprise). Wages established or agreed in this way may not be lower than the basic wage rate in the individual wage categories according to Section 13 of the Ruling and must also include supplemental wage payments according to Sections 5 to 9 of the Ruling, if the employee fulfills the conditions for their provision.

From the above, it is clear that the entrepreneur is obligated to provide a wage that is at least equal to the basic wage rates and supplemental payments regulated by the Ruling; however, he may stipulate or agree to higher wage rates, and/or higher supplemental payments. The entrepreneur is also fully entitled to make use of individual wage forms (time, participation, or piecework, premiums, bonuses, share in the results of the commercial activity, etc.), or combinations of them, use additional supplemental wage payments that are not regulated by the Ruling, and/or bonuses for work efficiency. The entrepreneur may also agree with the employee that a part of the wage, with the exception of the so-called guaranteed wage in accordance with Section 9, para. 2, of the government statute on legal labor relations in citizen's private enterprise (i.e., of the basic wage rate and supplementary payments regulated by the Ruling), will be provided in a form other than cash.

The provisions in Section 5 regulate the remuneration of employees for overtime. Overtime as defined by Section 96 of the Labor Code is work performed by the employee on the entrepreneur's instructions, or with his consent over and above the set weekly work hours, which are based on a previously established schedule of working hours and are performed outside the framework of the work shifts schedule. Employees who have agreed to shorter working hours cannot be ordered to do overtime, and overtime work in their case is understood as work that exceeds the set weekly work hours. The examples stipulated in Section 96, para. 2 of the Labor Code are not considered to be overtime.

In contrast to the general regulation in Section 116, paras. 1 to 3, of the Labor Code, in accordance with the definition in the provisions in Section 11 of the government statute on legal labor relations in citizen's private enterprise, employees working for private entrepreneurs primarily have a right to wages with a supplemental payment for overtime. Thus, for every hour of overtime, the entrepreneur will provide the employee with overtime wages consisting of the hourly portion of the basic wage rate and of a supplemental payment. If an employee receives a monthly salary, the hourly portion is established by the relation of the monthly basic wage rate to the monthly number of hours, which the Ruling determines for individual weekly work times. The supplemental payment must always be derived from the hourly portion of the basic wage rate. The supplemental payment is set as a minimum rate and generally is 25 percent of the basic wage rate, or 50 percent if the overtime is performed at night, or during days of continuous rest in the week. If the work is alternately performed during day, night, Saturday, and Sunday shifts, the entrepreneur has the right to set a uniform 33 percent supplemental payment, without taking into account whether the overtime was performed during the day or night, during a workday or a day of continuous rest.

If the employee works overtime between 0600 hours and 2200 hours on a holiday that falls on a normal workday, he is entitled to a supplemental payment of 25 percent unless a uniform 33 percent supplemental payment has been set because a holiday is not a day of continuous rest during the week according to the definition in Section 91, para. 1, of the Labor Code. Yet overtime on a holiday is the time that exceeds the period of a shift that a worker would work on a workday. I would like to note that, parallel to the supplemental payment for overtime, the worker is also entitled to a supplemental payment for

working on a holiday, according to Section 117, paras. 1 and 2, of the Labor Code, for the hours of overtime he works on a holiday.

The Ruling does not have any provision according to which the wages for possible overtime would already be included in the basic wage rate of some management employees, (compare the stipulations in Section 6, para. 3 of the FMPSV Ruling No. 146/1989 Sb. on the remuneration of employees in small organizations).

If an entrepreneur makes use of flexible working hours according to FMPSV Ruling No. 196/1989 Sb. on flexible working hours,[1] he must bear in mind, on the one hand, the provisions in Section 5 of this Ruling with the specific definition of the term "overtime work" and, on the other hand, the provisions in Section 6, para. 1 of this Ruling about the provision of supplemental payments for overtime work. If flexible working hours are installed, the employee, to whom the entrepreneur does not provide substitute vacation for overtime work, is also entitled to a uniform supplemental payment of 33 percent of the basic wage rate, over and above the attained wage, for every hour of overtime.

In contrast to former wage regulations, the Ruling no longer regulates supplemental payments for work during afternoon and night shifts; according to Section 4, the provision of such supplemental payments is the prerogative of the entrepreneur. Section 6 merely stipulates the conditions for providing supplemental payments for work performed at night. The employee has a legal right to this supplemental payment, if he works at night for at least two hours. Work at night is understood to be work performed between 2200 hours and 0600 hours. The supplemental payment must be at least 2.50 korunas [Kcs] per hour worked, unless a higher rate is set by an internal wage regulation, or a collective work contract, or an employment contract.

If flexible working hours are installed, the employee is entitled to a supplemental payment for work at night only if the entrepreneur sets the basic working hours (Section 2 of the FMPSV Ruling No. 196/1989 Sb.) in such a way that it they all fall between 2200 hours and 0600 hours.

Another entitled payment is the supplemental payment for work performed at high elevations according to Section 7 of the Ruling. According to this provision, workers are entitled to a supplemental payment ranging between Kcs5 and Kcs13 for every hour started, for work performed in a restricted space, or in an unnatural body position due to the set work procedures, or at heights over 150 meters. The entrepreneur naturally retains the right to provide supplemental payments for heights below 150 meters, according to the definitions in Section 4.

The provisions in Section 9 regulate the provision of supplemental payments for work performed on Saturdays and Sundays. The purpose of this supplemental payment is to provide an advantage to employees whose weekly work schedule includes days that are normally days of rest from work. Employees who work on Saturday and Sunday within the framework of the set weekly working hours are entitled to this supplemental payment in an amount that is no less than 50 percent of the basic wage rate, or the equivalent portion of the basic wage rate in the case of workers who are paid a monthly salary (compare Section 5, para. 1 of the Ruling). If the work performed on Saturday or Sunday is also overtime work, the employees are entitled only to a minimum 25-percent supplemental payment, since, simultaneously, they receive a supplemental payment for overtime according to Section 5 of the Ruling. Saturday and Sunday are understood to be calendar days from 0001 hours to 2400 hours. Supplemental payments will not be provided for work on Saturdays or Sundays that are workdays according to universally binding legal regulations. The Ruling of the Federal Ministry of Labor and Social Affairs No. 84/1985 Sb. on the regulations of working hours in the years 1986 to 1990 is such a regulation, according to which, for example, there is no right to a supplemental payment for work performed on Saturdays and Sundays (paragraph 21 of the quoted Ruling) for work done on 29 December 1990 because, as a result of the transfer of working hours, this constitutes a workday. On the other hand, however, there is a right to this supplemental payment in accordance with paragraph 22 of the cited Ruling for work done on 31 December, although it is neither a Saturday nor a Sunday.

If flexible working hours are installed according to FMPSV Ruling No. 196/1989 Sb., the supplemental payment for work performed on Saturdays and Sundays is a uniform 33 percent of the basic wage rate, irrespective of whether it is overtime or work performed within the framework of the set weekly working hours.

According to Section 8 of the Ruling, employees who perform work that entails a high risk to health, are entitled to a supplemental payment ranging between Kcs10 and Kcs36 for every hour begun. Conditions that make it necessary to use breathing equipment, or work under water, or work at very high temperatures, or work in an ionizing environment, are considered to be exceptionally difficult working conditions that are hazardous to health.

In Section 10, the Ruling regulates the option of combining payments for work at night, for work at high elevations, for work that entails a high risk to health, for work on Saturdays and Sundays, wages for overtime work, and other supplemental wage payments (Section 4 of the Ruling) into uniform, previously set lump sums per month or per hour. The entrepreneur may then accumulate amounts set in this manner into a uniform sum. Unless there is a fundamental change in the working conditions, such lump sums and accumulations of these wage components, may be executed up to the period of one year. If this method of providing supplemental payments is used, the entrepreneur is not obligated to keep systematic records of the employees' claims according to individual supplemental payments.

From the above, it is clear that the lump-sum method of supplemental payments is only advantageous as long as there are no major changes in the performance of work under specific working conditions between the individual periods.

For the purpose of long-term economic incentive based on the profitable business transactions of the enterprise, the legal regulation makes it possible to establish personal wage accounts. The entrepreneur may establish a personal account according to Section 13 of the government statute on legal labor relations in citizen's private enterprise (compare preceding commentary) for a manager or other employee, through whom he performs his entrepreneurial activity. Section 7, para. 4 of the Law on Citizen's Private Enterprise assumes this manner of enterprise activity. While the government statute on legal labor relations in citizen's private enterprise establishes the general principles of setting up personal wage accounts, Section 11 of the statute establishes more detailed conditions.

A personal wage account may be established only for a manager or other employee through whom the entrepreneur performs his entrepreneurial activity. A further condition is the conclusion of a written contract between this employee and the entrepreneur on establishing a personal account. One of the provisions in the contract must be the stipulation of the portion of the wage that will be transferred to the personal account (according to Section 13 of the cited government statute, the so-called guaranteed wage as defined in Section 9, para. 2, of the cited government statute cannot be transferred to the personal account), furthermore, it is necessary to agree on the amount and the conditions of reduction of the transferred portion of the wage and the due date of payment from the personal account. If the employment is terminated before the agreed due date of payment, the entrepreneur is obligated to pay out the wage from the personal account in an amount equal to the agreed conditions, no later than three months after the termination of the employment. If there is a permanent change in the agreed work conditions during the employment of the employee for whom a personal account has been set up, the procedure to be followed is similar, i.e., the wage from the personal account must be paid out within three months after the permanent change in the agreed type of work has gone into effect in an amount established in the agreement. Wages in a personal account bear no interest and they are included in the income of the employee only after they have been paid out.

The provisions in Section 12 of the statute deal with the provision of wages and compensation wages during downtime. Downtime as defined in Section 129 of the Labor Code is understood as the interruption of work due to a temporary problem caused by a breakdown of mechanical equipment, in the delivery of raw materials or fuels, by defective work bases, or by other similar operational reasons. If the entrepreneur transfers the employee to other work during the downtime, he is entitled to a wage according to the work performed, irrespective of whether the downtime was caused by the employee or not (compare Section 115, para. 2 of the Labor Code). If the employee is not transferred to other work, he is entitled to receive a compensation wage that is at least equal to the guaranteed wage rate. However, the employee is only entitled to this compensation wage if the interruption in work lasts at least one continuous hour.

According to Section 14, the employer is obligated to familiarize his employees with the contents of the statute on reimbursement of employees in citizen's private enterprise, furthermore, he is obligated to familiarize them with the manner of remuneration, and with their inclusion in the rate category, and he is also obligated to make it possible for employees the examine the statute at any time.

When executing the monthly wage accounting, the entrepreneur is obligated to issue a written statement on the individual components of the wage, compensation wage, and/or possible reductions in the wage. On the employee's request, he is also obligated to submit the documents used to calculate the employee's wage (compensation wage) to him to examine. However, in small private enterprises the statute enables wages to be set very succinctly and simply, so there is no need for a complex wage system and complex calculations of individual wage components.

In my opinion, the above-mentioned legal regulation creates specific prerequisites in the sphere of remuneration for the introduction of a market mechanism. But the object should be the express and determining task of so-called tripartite negotiations on all levels, not only in private enterprises.

Legal Labor Relations in Citizen's Private Enterprise

One of the first legal regulations that create the necessary latitude for a market economy to function is Law No. 105/1990 Sb., on Citizen's Private Enterprise.

Considering the fact that citizens may employ an unlimited number of workers in this type of enterprise, a Czech and Slovak Federal Republic government statute on the legal labor relations in citizen's private enterprise was drafted in connection with the legislative work on the mentioned law, and was made public in the Collection of Laws as No. 121/1990. The government statute was published on the basis of authorization mentioned in Section 269, paragraph 2, which was incorporated into the Labor Code during the last major amendment (Law No. 188/1988 Sb., which amended and completed the Labor Code). Since the legal authorization anticipated the publication of legal regulations to regulate the entrepreneurial activity of citizens, which would lead to employment agreements between citizens or the conclusion of contracts on work performed outside employment, it was not necessary to amend the Labor Code. At the present stage, it is quite sufficient to stipulate the necessary divergencies from the provisions in the Labor Code in the execution of legal regulations, i.e., in the above-mentioned government statute.

The legislative work on the statute was based on the principle that private entrepreneurs basically must be provided with the same rights and obligations as only organizations had had in legal labor relations in the past. However, from the point of view of legal labor relations, the entrepreneurial activity of citizens, as private entrepreneurs has its own specific features that are formulated as appropriate divergencies.

The opening provisions primarily stipulate that the Labor Code applies to legal labor relations that arise in citizen's private enterprise, unless the statute stipulates otherwise.

Since the Labor Code does not use the term "entrepreneur," and considers only the relevant organizations to be employers, the statute stipulates that—for the purposes of the statute—whenever the Labor Code establishes rights or obligations for an organization or for a manager of an organization, this is to be understood as a citizen who is entitled to operate an enterprise according to a special regulation. A citizen, who is operating his business according to the law on citizen's private enterprise is, undoubtedly, such a citizen-entrepreneur. However, the statute will also apply to legal labor relations between an employee and an entrepreneur, who will be performing his entrepreneurial activity on the basis of other legal regulations. The legal labor relations between an employee and, for example, a joint-stock company, a cooperative, a state enterprise, etc., will, however exclusively be regulated by the provisions of the Labor Code, since the employer in such an instance is not an entrepreneur-citizen, but an organization.

Considering the fact that employees working for entrepreneurs who have a larger number of employees, will obviously organize into unions, the statute stipulates that the provisions of the Labor Code regulating the activity of unions are applicable to the legal labor relations if a union organization is active in the enterprise.

The divergent regulations themselves are formulated in two ways in the statute. On the one hand, the provisions in Section 4 list a number of paragraphs from the Labor Code which will not be used for legal labor relations between the entrepreneur and the employee and, on the other hand, there are explicitly regulated divergencies in some practices of the Labor Code, which are defined in subsequent paragraphs of the government statute.

However, there are also provisions of the Labor Code, which cannot be applied to the legal labor relations between the entrepreneur and the employee, that are not mentioned in the statute. These are provisions containing matters that are clearly inapplicable.

The individual divergent provisions will be discussed in the following commentary, with the exception of wage problems, which have a separate commentary.

Participants in Legal Labor Relations

As is obvious from what has been written above, the entrepreneur and his employee or employees are participants in legal labor relations in private enterprise.

A private entrepreneur may have managing employees, he may have a representative, in other words, he is subject to the same structure as an organization. The entrepreneur's employees may also conclude an employment contract or a contract on work performed outside employment only if they have been granted authority according to the labor laws by the Code (Section 11 of the Labor Code).

When negotiating employment with an employee, the entrepreneur must bear in mind that he may only hire a worker who has furnished proof that he has terminated his former employment and/or his membership in a production cooperative or an agricultural cooperative (Section 25 of the Labor Code).

Among the provisions that are not applicable to legal labor relations between an entrepreneur and an employee, the statute primarily lists Section 9, para. 4, of the Labor Code, i.e., the provisions that regulate the status of the manager of a collective in a collective type of work and remuneration organization, since it is not to be expected that this form will be used by private entrepreneurs.

The Employees' Participation in the Activities of the Enterprise

Workers organized into a union will participate in the activities of the enterprise, resp. of the entrepreneur, primarily through collective work contracts.

The explicit divergency in Section 5 of the statute stipulates that, in order to ensure the interests and needs of the employees and to improve their working, health, social, and cultural conditions, the entrepreneur **may** conclude a collective work contract with the appropriate union organization. Thus the entrepreneur will decide whether to conclude such a contract, or whether he has no interest in doing so. Therefore he is in a better position than the manager of an organization who, according to the Labor Code, is obligated to act in such a way that the contract will be concluded, although this obligation does not mean that he is obligated to accept all commitments suggested by the relevant union organization.

Furthermore, the statute stipulates that, according to the Labor Code, the entrepreneur and other employees mentioned by name in the collective work contract are responsible for the fulfillment of obligations accepted in the collective work contract and for the timely verification of their fulfillment. According to the provisions, the appropriate union organization that accepted the obligations bears liability for their fulfillment.

In Section 4 the statute eliminates the provisions in Section 20, paras. 1, 4, and 6, of the Labor Code as

inapplicable. Paragraph 1 of this Section deals with the conclusion of a collective work contract, which is dealt with by the above-mentioned divergency for private entrepreneurs. Paragraph 4 deals with the verification of the fulfillment of obligations in the collective work contract, which is also regulated by an explicit divergency for private entrepreneurs. Section 20, paragraph 6, of the Labor Code regulates the mechanism of making decisions on conflicts between the relevant union agency and the organization about the fulfillment of obligations, which do not involve individual claims for workers. Since the provisions entrust the resolution of these conflicts to the competent higher union agency and the agency superior to the organization, it is not applicable to a private entrepreneur because a private entrepreneur—a citizen—has no superior agency.

The above-mentioned provision in Section 20, para 6, of the Labor Code is not replaced by an explicit divergency, therefore the entrepreneur himself, together with his union partner, i.e., with the competent union agency active in his enterprise, must resolve the mentioned conflicts (i.e., for example, a conflict about the fulfillment of obligations in building a social facility for the workers).

If a union organization will be active in the enterprise, and the entrepreneur concludes a collective work contract with the union agency, government statute No. 82/1989 Sb., on collective work contracts will also apply to its conclusion, contents, and verification of fulfillment. However, the provisions in Section 12 and Section 13, which provide detailed regulations on conflicts about the fulfillment of commitments that do not involve claims for individual employees, will not apply to collective work contracts concluded in a private enterprise.

The provisions in Section 21 of the Labor Code, which stipulate that central agencies, in agreement with the relevant union agencies, shall create conditions for the development of creative work initiative, particularly in socialist competition, and shall support the development of many different forms of workers' participation in management, is certainly not applicable to private entrepreneurs, and thus the statute eliminates them in Section 4.

Since, as mentioned above, private entrepreneurs do not have a superior agency, the application of Section 26, para. 2, of the Labor Code has also been expressly eliminated; this provision regulates the obligation of agencies of superior organizations to monitor how organizations meet their commitments when creating and developing legal labor relations, as well as the obligation to ascertain the causes of for violating legal labor regulations, and to deduce conclusions from this, and to systematically create conditions for their observance.

The Origination of Employment

The government statute eliminates as inapplicable the provisions in Section 27, paras. 1, 3, and 4. Firstly this eliminates the directive provisions regarding a worker in a workers' collective having the right to share—through his work for wages according to the instructions of the organization—in the fulfillment of its tasks and to participate in the development, management, and control of its activities.

The provisions in paragraphs 3 and 4, regulate employment that results from election or appointment. These methods of establishing employment cannot be used in private enterprise.

An employment relationship between a private entrepreneur and his employee can thus only be established through an employment contract.

Other provisions in the Labor Code, which regulate the conclusion of an employment contract and changes in employment, also apply to private entrepreneurs without change.

The statute merely eliminates the use of provisions on a general employment contract (Section 34 of the Labor Code) for legal labor relations between a private entrepreneur and his employee, since this is a type of employment contract which is not practical, considering the specific features of private enterprise.

In contrast to an organization, the entrepreneur is not obligated to submit information on new employment agreements to the competent union agency within the deadlines agreed with it, in order for it to control the acceptance of new employees and their work and wage categorization (Section 35, para. 3, of the Labor Code).

Termination of Employment

The provisions in the Labor Code essentially apply to the termination of employment. The entrepreneur and the employee may agree to terminate the employment, either can give the other notice, or immediately terminate employment, or possibly terminate it during the probation period. Employment that was agreed for a specific period of time will be terminated when the agreed period has passed.

An entrepreneur, like an organization, can give an employee notice only for reasons stipulated in the Labor Code (Section 46, para. 1), while an employee may give notice for whatever reason, or not give a reason at all.

There is no different formulation of the individual reasons for giving notice that can be used by an entrepreneur, therefore, when notice is given, the reasons for giving notice listed in the text of the Law must be applied.

There is no different formulation of reasons for giving notice, which would conform more closely with the specific features of entrepreneurial activity, since there is a number of references to reasons for giving notice listed in Section 46, para. 1, of the Labor Code, and these would then necessarily also have to be formulated differently for an entrepreneur, which would make the government statute more voluminous and complex.

Among the provisions that are not applicable to the legal labor relations between an entrepreneur and an employee, the statute also lists Section 46, para. 1 f, the portion of the sentence following the semicolon, which deals with giving notice to an employee for a less serious violation of work discipline only if he perpetrated it during the period before punitive measures legally imposed for a previous violation of work discipline have been expunged. This provision is not applicable, since the entrepreneur cannot impose punitive measures on the employee for violation of work discipline (see below).

The entrepreneur cannot apply the provisions in Section 53, para. 1 b and c, in other words, he cannot immediately terminate a worker's employment for especially serious violations of work discipline or for repeated serious violations of work discipline; he cannot terminate his employment in this way even if the worker has endangered the security of the state, and his remaining in the organization to the end of the period of notice is impossible without endangering the proper fulfillment of the organization's tasks.

However, the statute explicitly formulates a divergency (Section 6 of the statute), on the basis of which the entrepreneur may terminate employment in an exceptional case if the employee violates the obligations issuing from employment in a particularly serious manner, and one cannot in all fairness expect the entrepreneur to continue the employment. The same reason for immediate termination applies to contracts on work performed outside employment.

The Participation of Union Agencies in Reassignments, Transfers, and Termination of Employment

If a union organization will be active in the enterprise, the provisions in the Labor Code that regulate the authority of unions will also apply to the legal labor relations between the entrepreneur and the employees. Therefore, under the conditions stipulated in Section 41 and Section 59 of the Labor Code, the entrepreneur will have to obtain the prior consent of the relevant union agency when reassigning or transferring a worker and when terminating employment.

However, the private entrepreneur is not obligated to submit other cases of terminating employment (Section 59, para. 3, of the Labor Code) to the competent union agency within the deadline agreed for it to control.

Since the employment relationship between the entrepreneur and the employee cannot be established through election or appointment, the provisions in Section 65 to Section 68 of the Labor Code, which regulate this type of employment, do not apply to the legal labor relations between the entrepreneur and the employee.

Work Discipline and Work Code

The statute declares the directive provisions in Section 72 of the Labor Code, which define the so-called socialist work discipline, to be inapplicable. Also, when enumerating the basic obligations of the managing employees, the statute cut the provisions in Section 74, para. 1 b, e, and h, which included the same directive contents.

The provisions in Section 74, para. 2, regulating cooperation between the managing employees and social organizations, particularly the Revolutionary Trade Union Movement and the Socialist Youth Association, were also deleted as being obsolete.

The provisions in Section 75, which regulate the evaluation of the work of individual employees and assess the work initiative of employees and their collectives, are equally inapplicable.

The entire passage in the Labor Code dealing with punitive measures (Section 77 to Section 81) will also not be applied to legal labor relations between an entrepreneur and an employee, because the equality between the entrepreneur-citizen and the employee-citizen would be impaired if they were retained.

However, the entrepreneur has the same options as an organization to give notice to an employee for violating work discipline, and/or he can immediately terminate his employment, he can even curtail his wages for unsatisfactory performance.

The statute explicitly states that the entrepreneur may publish a work code for the purpose of internal order and to strengthen work discipline (Section 7). Therefore, it is up to the entrepreneur whether he considers it to be propitious to develop the provisions in the Labor Code in more detail, to accord with the special conditions in his enterprise, through a work code in accordance with legal regulations.

The provisions in Section 82, paras. 1, 3, and 6, of the Labor Code are not applicable, i.e., the provisions practically establishing the obligation of the organization to publish a work code, the publication of work codes by superior agencies, or the publication of disciplinary codes in the transportation sector.

Working Hours and Time of Rest

According to former legal regulations, a private entrepreneur is not entitled to shorten the established working hours per week for his employees (Section 83 of the Labor Code) without reducing wages. Thus his employees have the same working hours as other employees, and the entrepreneur is obligated to observe all legal regulations concerning employees' working hours.

The only divergency concerning working hours is the provision in Section 8 of the statute, according to which, if the nature of the work or the conditions of its performance do not permit the working hours to be scheduled equally into individual weeks, the entrepreneur may agree with the employee on an unequal scheduling of the

working hours and/or, in conformance with the conditions stipulated in Statute No. 223/1988 Sb., of the Government of the Czechoslovak Republic, through which the Labor Code is implemented, he can agree to have various continuous rest periods during the week. At the same time, the average working hours during a specific period, usually four weeks or an entire calendar year, may not exceed the limit set for working hours per week.

Care of the Employees

The private entrepreneur will not be using the method of so-called socialist planning, mentioned in the provisions of Section 139, para. 4, of the Labor Code, because it is impractical for his needs and it deals with an outdated planning method. He will himself choose an optional method for planning tasks in the social sphere and, apart from that, there is certainly great latitude in collective work contracts for regulations in this area.

A private entrepreneur, especially one who employs a small number of workers, cannot be required to have the obligation to provide meals for his employees during all shifts. Therefore the statute stipulates that the provisions in Section 140 of the Labor Code will not apply to the legal labor relations between an entrepreneur and an employee. Thus the legal regulation included in Government Statute No. 137/1989 Sb., on meals at the workplace will also not apply to a private entrepreneur.

An entrepreneur also cannot be required to construct and maintain accommodation and housing, gymnastic, physical education, and other facilities stipulated in the further provisions in Section 140.

Since, from the point of view of proper nutrition and the creation of a positive atmosphere in the enterprise, it is certainly desirable that the entrepreneur's employees eat well, the statute regulates the possibility of providing meals in Section 14, as the only explicit divergency.

According to this provision, the entrepreneur may provide meals and suitable beverages for his employees directly at the workplace or close by. At the same time, he may provide the employees with an allowance of up to Kcs10 per day. The meals must be in accordance with the principles of proper nutrition.

Thus the entrepreneur has the option to decide whether to provide meals for his employees, and if he decides to do so, he has another decision to make: Whether he will provide an allowance for the meals or not. He has two choices. If he provides meals, it does not mean that his employees must necessarily eat within the confines of the enterprise; for instance he could make a contractual arrangement for meals to be provided at a nearby restaurant. In small enterprises, the form of so-called family meals may be considered, where the employee eats with the entrepreneur's family and where, for example, the entrepreneur's wife prepares the meal.

The amount of the allowance has been set as a maximum amount, which already takes into account the anticipated rise in food prices. In this connection, one should note that the allowance need only be given to the employee if the entrepreneur provides meals. The purpose of providing an allowance is certainly not merely to pay a specific amount that should serve as a contribution toward financing meals, which the employee obtains himself.

The provisions in Section 141 are also not practical for the entrepreneur, and thus the statute includes it among those that are inapplicable, since, for example, the entrepreneur-citizen cannot be expected to set up his own training facility.

However, care for the employees qualifications should also not be underestimated in a private enterprise, thus in Section 15 an explicit divergency stipulates that the entrepreneur must ensure the enhancement and/or improvement of his employees' qualifications, and must ensure that they be employed in jobs commensurate with their attained qualifications.

Working Conditions of Women and Young People

The legal regulation of the working conditions of women and young people defined in the Labor Code also applies to the legal labor relations between an entrepreneur and his employee, i.e., an employee who is a woman or a young person. Only the provisions in Section 152, para. 2, of the Labor Code, which regulate the permission for women over the age of 18 to work at night, will not be applicable. Such permission cannot be considered in private enterprise, since it is specifically worded in such a way that it is in accordance with the departmental subordination of individual organizations, which does not exist in private citizens' enterprise.

Compensation for Damages

Compensation for damages for which the employee is liable vis-a-vis the entrepreneur, as well as compensation for damages for which the entrepreneur is liable vis-a-vis the employee are regulated by the provisions in the Labor Code.

Since a private entrepreneur will not have a superior agency, and especially since it is not possible to limit him in defining the scope of his work, for which it will be necessary to conclude a written contract on material liability, Section 176, para. 4, of the Labor Code will not apply to a private entrepreneur. This provision includes the central agencies' authority to stipulate the principles for defining the scope of such types of work through a legal labor regulation.

The private entrepreneur should consider what would be the most effective way for him to get compensation for damages which, for example, amount to a very small sum. Therefore the provisions in Sections 185, para. 1, and 186 of the Labor Code, which do not give organizations this choice, do not apply to him.

The provisions in Section 185, para. 2, the part of the sentence following the semicolon, and para. 5 will also not be applicable, since the private entrepreneur does not have a superior agency, and the entrepreneur himself will surely calculate the amount of compensation for damages owed him by his manager (if he will be transacting business through him), or the manager's representative, just as he will calculate the relevant amount for any of his employees who will be liable for damages.

The entrepreneur's liability for damages caused to an employee is completely regulated by the provisions in the Labor Code (Section 187ff.). since, particularly when dealing with on the job accidents and occupational diseases, the compensation can often be very expensive, and in view of the possible long-term provision of this compensation, Law No. 105/1990 Sb., on Citizen's Private Enterprise includes the provisions in Section 22. On the basis of these provisions, there is legal liability insurance for the entrepreneur for damages caused to employees during the performance of their jobs or directly connected with it, for which the entrepreneur bears liability according to the Labor Code.

More detailed conditions of this legal liability insurance for the entrepreneur are regulated in the Rulings of the Republic Ministries of Finance, Prices, and Wages, which are published on the basis of the authority stipulated in Section 22, para. 2, of the Law on Citizen's Private Enterprise.

On the basis of this legal regulation, every entrepreneur, who is registered at the competent registration agency, is insured. He is thus entitled to have the insurance company pay compensation for damages caused to his employee for which the entrepreneur bears liability according to the Labor Code.

The insured entrepreneur has the obligation to pay the insurance if he employs at least one worker.

Training for a Profession

The former legal regulations did not deal with the question of training apprentices by private entrepreneurs, therefore the private entrepreneur will not apply the provisions in Section 227 of the Labor Code concerning the conclusion of an employment contract with a student who is training or was training for a future profession.

The provisions in Section 227 a of the Labor Code will also be applied in relation to the employment of apprentices by private entrepreneurs; these provisions deal with the reimbursement of a proportionate amount of the expenses for the education of an apprentice in a teaching or study field, as long as the apprentice has committed himself to stay in the organization for which he is training for a profession after he has passed the final apprentice examinations or high school graduation examinations (or possibly after the termination of the studies or training).

Final Provisions

So as to eliminate any possible confusion, the out-dated provisions in Section 268 of the Labor Code will no longer apply; these provisions state that if a nonsocialist organization participates in legal labor relations, the provisions of the Labor Code are applicable.

Other questions could arise in relation to employment between citizens according to the provisions in Section 269, para. 1, of the Labor Code and para. 2. Since employment according to the first paragraph of Section 269 of the Labor Code serves to provide services for personal needs, this provision has been deleted as inapplicable to legal labor relations between an entrepreneur and an employee.

The provisions in Section 271 of the Labor Code, which regulate the status of the central agency in organizations directly managed by national committees, will also not be applicable.

Divergent Use of Some Provisions

In addition to the fundamental regulations in the Labor Code, in a number of cases, the rights and obligations issuing from legal labor relations are also regulated by the legal labor regulations of the relevant central agencies. Since private entrepreneurs do not have superior agencies, and their activities will vary greatly, a resolution was adopted that these legal labor regulations should be applied as appropriate in some cases.

The provisions in Section 16 of the statute stipulate that the legal labor regulations issued for organizations performing similar activities as the entrepreneur will apply to the rights and obligations between the entrepreneur and his employee that result from Section 74, para. 1 g, Section 95, para. 2, Section 105, para. 4, Section 33, para. 6, Section 150, para. 2, and Section 167, para. 2 of the Labor Code.

This deals in particular with the legal regulation of work preparedness, the establishment of periods with less need for work in order to provide additional vacation, the provision of personal precautionary work aids and detergents, cleaning agents, and disinfectants, and a list of types of work and workplaces that are prohibited to women and young people.

The Transfer of Rights and Obligations Issuing From Legal Labor Relations

The provisions in Sections 249 to 251 of the Labor Code, which regulate the transfer of rights and obligations issuing from legal labor relations, cannot be applied to legal labor relations between an entrepreneur and an employee. These provisions assume a legal successor if an organization is discontinued, or possibly state intervention into the legal labor relations of a discontinued organization.

According to the provisions in Section 12 of the Law on Citizen's Private Enterprise, the right to perform entrepreneurial activities is rescinded through the decision of the agency that is competent for registration, or through the death of the entrepreneur. If the right to perform entrepreneurial activities is rescinded, the ability of an entrepreneur to employ workers is also rescinded. If the rescindment is due to the decision of a competent agency, the entrepreneur is obligated to settle the legal labor relations with the employee, however, even after the termination of his right to perform entrepreneurial activities, he continues to be subject to the existing legal labor relations. However, the situation is different if the entrepreneur dies. The resolution, especially in relation to the customers and employees, is stated in the provisions in para. 2 of the above-mentioned Section 12 of the Law on Citizen's Private Enterprise. According to this provision, if the entrepreneurial activity stated in the decision on registration is not terminated through the death of the entrepreneur, his rights and obligations issuing from the entrepreneurial activity will be transferred to his heir, but only for the period that is absolutely necessary to fulfill the obligations from the commitments that arose before the entrepreneur's death.

The final explicit divergency stipulated in Section 17 of the statute, according to which the rights and obligations issuing from legal labor relations are transferred to the heir due to the death of the entrepreneur, is based on the above-mentioned transfer of rights and obligations from the entrepreneurial activity to the heir of the entrepreneur.

The entrepreneur's heir, in connection with the fulfillment of obligations from commitments that arose before the entrepreneur's death, will terminate employment or contracts on work performed outside employment that were concluded by the original entrepreneur with his employees. If he should decide that he himself will apply for registration and will continue to carry on the enterprise, he may of course employ the workers who previously worked for the deceased entrepreneur.

The Statute of the Czech and Slovak Federal Republic, No. 121/1990 Sb., On the Legal Labor Relations in Citizen's Private Enterprise went into force on 1 May 1990.

Social Security of Entrepreneurs and Their Employees

The Law dated 18 April 1990 on Citizen's Private Enterprise went into force on 1 May 1990. This Law is a totally new regulation of the entrepreneurial activity of citizens, which is understood to be permanent production output, transaction of business, or provision of services and work, or other activities with the purpose of attaining a permanent source of income. In connection with this law, it was also necessary to reregulate social security for citizens performing entrepreneurial activities, and to resolve some questions about the social security of workers employed by the entrepreneur in his enterprise.

The necessary regulation of questions about the social security of entrepreneurs and their employees, was executed through the law dated 19 April 1990, which amends and completes Law No. 100/1988 Sb., on Social Security, and Law No. 54/1956 Sb., on Employees' Health Insurance, and the Ruling of the Federal Ministry of Labor and Social Affairs, dated 20 April 1990, which amends and completes Ruling No. 149/1988 Sb., through which the law on social security is executed, Ruling No. 165/1979 Sb., on Some Employees' Health Insurance and on Providing Health Insurance Benefits to Citizens in Exceptional Cases, and Ruling No. 91/1958 Sb., which makes public the Provisions of the Central Council of Trade Unions on the Organization and Execution of Employees' Health Insurance. These legal regulations also went into force on 1 May 1990. Within the framework of the regulation of social security in enterprises, a distinction is made between two independent groups of questions; these are the social security of entrepreneurs, and the social security of entrepreneurs' employees. Thus an entrepreneur who employs workers within the framework of his entrepreneurial activity (which he is able to do due to the provisions in section 4, para. 1, of the Law on Citizen's Private Enterprise) has two obligations—on the one hand, he has the obligation related to his own social security and, on the other hand, he has the obligation to provide social security for the workers he employs. Social security is here understood to mean health and pension insurance.

Social Security for Entrepreneurs

The regulations for social security use the term "independently earning person," which is a broader term than "entrepreneur," since, apart from persons performing entrepreneurial activities according to the Law on Citizen's Private Enterprise, this also includes:

—other persons performing independent entrepreneurial earning activities at their own cost and on their own responsibility according to other universally binding legal regulations,

—persons performing artistic or other creative activities on the basis of the law on literary, scientific, and artistic works (Author's Law), outside legal labor or analogous relations, as long as they intend to perform this activity systematically, according to their own declaration,

—independent farmers, who cultivate agricultural land and personally perform activities for income on their own responsibility,

—sportsmen and sportswomen who, according to their own declaration, perform their sports activities as their profession for income, but are not in a legal labor or analogous relationship.

Entrepreneurs are persons whose right to perform entrepreneurial activities is based on registration. If, however, citizens received permission from the national committee to sell goods or perform other services on the

basis of the CR Government's Statute No. 1/1988 Sb., or if citizens were granted the consent of the national committee to provide temporary private accommodation according to CR Government Statute 63/1984 Sb., this permission or this consent is considered to be registration according to the Law on Citizen's Private Enterprise, and these citizens are automatically considered to be entrepreneurs. All others must apply for registration to be granted the status of entrepreneurs. For the purposes of social security, not even the employees of an entrepreneur are considered to be entrepreneurs, not even the manager or his representative. If the activity stipulated in the decision on registration is not discontinued on the death of the entrepreneur, and the rights and obligations from the entrepreneurial activity are transferred to the heir of the entrepreneur (to be sure, only for an absolutely necessary period of time), not even this heir participates in social security as an entrepreneur (he can participate in social security as an entrepreneur only if he himself acquires the right to entrepreneurial activity).

Legal labor relations cannot arise between an entrepreneur and his spouse (the Law on Citizen's Private Enterprise explicitly prohibits this in Section 4, para. 2). However, if the spouse of the entrepreneur participates in the entrepreneurial activity in such a way that he has a certain share in the earning activities of the entrepreneur, this spouse will participate under the same conditions and to the same extent in the health and pension security of independently earning persons as a so-called "cooperating person."

The general regulations on health security (insurance) and social security apply to the social security of entrepreneurs, unless they explicitly stipulate otherwise. The basic divergency is the principle of participation in security, since entrepreneurs participate in social security on the basis of making insurance payments.

The basic obligation of an entrepreneur is to submit an application form for social security for independently earning persons to the competent social security agency, and then to pay insurance to the account of this agency. Only the following three instances are exempt from the obligation to submit an application and to pay insurance: —the entrepreneurial activity will be performed to such a limited extent that income from it will not reach Kcs4,800 per year, —the entrepreneur already participates in health and pension insurance for a different reason (e.g., he continues to be employed or to be a member of a cooperative), or —the entrepreneur is receiving an old-age or disability pension.

In the above-named instances, however, if the entrepreneur so wishes, he may submit an application for security and participate in social security from several different claims. Parallel participation in security from entrepreneurial activity and from a different work activity is thus possible; the claims for benefits are determined independently from each type of security (however, some maximum limits, such as the highest possible health insurance, or the reduction of the average monthly income are applicable, in the same way as if it were a matter of two different jobs).

The application for security must be submitted within eight days of inaugurating the entrepreneurial activity (this means actual inauguration, which may not be the same as registration), and notice of cancellation of the security is to be submitted within the same deadline, starting from the date of termination of the entrepreneurial activity. All entrepreneurs must submit an application, even those who did not have to submit an application for registration because they had permission or consent from the national committee on the basis of regulations valid before 1 May 1990 (however, a longer deadline for submitting the application applies to these entrepreneurs, since they may submit the application up to the end of 1990 without losing their right to benefits).

Insurance is paid for the whole calendar month in advance. To pay the insurance in time, it must be remitted before the twentieth day of the preceding calendar month.

The insurance rate is 25 percent of the assessment base. An amount ranging between Kcs400 and Kcs10,000 per month is chosen using the assessment base. Thus the insurance payment is between Kcs100 and Kcs2500 per month. Therefore, the specific amount that the entrepreneur will pay for his security depends on his decision. At the same time, the insurance amount may change at any time, without prior notification or consent of the social security agency.

Making insurance payments is an important prerequisite for claims to benefits, because the right to benefits exists if the conditions for claims to it have been fulfilled and the insurance has been paid for the entire period of the security, including the period for which health insurance benefits are to be paid. An additional prerequisite for a claim to health insurance benefits is that the insurance for the calendar months during which the claim arose was paid in time (yet a claim to benefits for this month does not arise through subsequent payment of the insurance due).

Apart from this, some divergencies or special regulations apply to the provision of health insurance and pension security (in these cases reference is made to the applicable regulations).

Social Security for the Employees of Entrepreneurs

From the point of view of employees, the social security of employees of entrepreneurs, which includes their pension and health insurance, is no different than that of workers employed by organizations. This means that participation in health insurance for workers who are employed in an enterprise or by a citizen-entrepreneur, commences on the day of actual commencement of the job, irrespective of when the employment was agreed; this happens automatically, issuing directly from the law (Section 7 of Law No. 54/1956 Sb., on Employees' Health Insurance).

Entrepreneurs may also employ citizens on the basis of a contract on the work activity. These employees also participate in health insurance ex lege, but according to the conditions stipulated in Ruling No. 165/1979 Sb., on Some Employees' Health Insurance and on Providing Health Insurance Benefits the Citizens in Exceptional Cases. These so-called contract employees participate in health insurance if they are not already insured, resp., do not have security as a result of some other activity, if they do not receive an old-age or disability pension, and if this contract lasted or should have lasted more than six consecutive workdays and income from it should have or did reach at least Kcs400 per month. In this case the principle applies that a contract employee is only insured during those calendar months when his earnings reached a minimum of the above-mentioned Kcs400. The above-mentioned Ruling then lists instances when noncompliance with this income limit may be permitted.

As in the case of employed workers, insurance for a worker employed on the basis of a contract on work activities cannot commence before the first day following the conclusion of the contract when he started to perform the agreed work. If such an employee is not insured during a calendar month because he did not meet the set conditions, the insurance will commence again on the first day of the calendar month in which these conditions were met.

Workers employed by an entrepreneur, as well as citizens performing work on the basis of a contract on work activities who are employed by an entrepreneur, also participate in pension insurance in the same manner as employees of an organization. For the purpose of pensions, employment, that is to say, the legal labor relations established through a contract on work activities, is assessed as employment, as long as it establishes participation in health insurance.

In the case of workers employed on the basis of a contract on work activities other than those mentioned above, as well as workers employed on the basis of a contract on the execution of work, neither health insurance, nor pension security claims arise from this activity.

In this connection, one must primarily mention where health insurance for entrepreneurs' employees is administered, and what obligations arise for entrepreneurs in this context.

The legal principle, that employees' health insurance is administered in the institutions and in the competent health insurance agencies, applies. For the purposes of this insurance, an institution is understood to mean any employer (i.e., an organization, as well as a citizen or an entrepreneur) who has more than twenty employees. However, an institution is also understood to be an employer who has fewer employees, but has another organization keep his wage record. The above-mentioned number of employees includes both employed workers, and workers employed by the entrepreneur on the basis of a contract on work activity.

These employers—entrepreneurs—have the same tasks as institutions (organizations) in providing health insurance benefits and in its administration. Above all, they are obligated to accept applications for benefits, including maternity benefits, and to provide them in cases when there is a legal claim and when all conditions for their provision or for the amount to be paid are incontestible and indisputable. In all other cases—i.e., contested benefits, voluntary benefits, benefits that have not been approved or the amount has been reduced or forfeited, or payment has been stopped, or an overpayment, caused by the recipient must be returned—the employer, according to former regulations, would be obligated to submit the matter to the union agency in the institution for resolution. According to the new legal regulations, as a result of which the administration of the employees health insurance resources was transferred from the unions to the state, the Okres administration of social security will be responsible for making such decisions.

Furthermore, employers are obligated, among other things, to keep the necessary records in relation to the provision and payments of benefits, to submit the prescribed reports, to notify employees in time of the expiration of the support period, as well as to draw up accounting statements of the benefits and insurance for the competent health insurance agency.

Other employers are considered to be so-called small institutions and their health insurance is secured by the Okres health insurance administrations (in connection with the new organization of the social security agencies this authority will be transferred to the new Okres social security administrations). However, even an employer who is a so-called small institution, is obligated, among other things, to register his employees for insurance at the Okres administration on the prescribed forms, within seven days from commencement of the employment, and to cancel their insurance within the same deadline once their legal labor relations have ended.

One of the basic obligations of an entrepreneur is to pay health insurance for his employees. However, the payment of this insurance must be distinguished from the insurance payment that the entrepreneur makes for his own personal social security. The insurance that the entrepreneur pays to the employees' insurance carrier for his employees also includes their pension insurance.

The insurance rate is 25 percent of the sum of the wages of all employees of the same employer, to whom the regulations for health insurance apply. The basis for determining the insurance may only be income from activities that are a basis for participation in health insurance. Therefore neither remuneration from contracts on execution of work, nor remuneration from contracts on work activity with the exception of remuneration from contracts on work activity that form the basis for health insurance according to Ruling No. 165/1979 Sb., can form the base for determining the insurance.

Wages are always understood to be wages for work according to the regulations on taxes from wages, unless they are directly exempt from this tax by law. In conclusion one must emphasize that the 25-percent insurance rate is explicitly stipulated by the law for employers who are physical persons (citizens). Other employers, i.e., legal entities, are either subject to taxes from the volume of wages according to special regulations that also include health insurance, or are obligated to pay insurance according to Law No. 54/1956 Sb., on Employees' Health Insurance in the version amended by the Federal Assembly in April this year, i.e., in the amount of 10 percent of the sum of the wages of all their employees.

However, the employer—citizen—who, similarly to an organization, is obligated to pay the tax on the volume of wages according to special regulations that also include health insurance, does not pay the 25-percent rate for health insurance.

In addition to this, the employer must also fulfill his obligations relating to the pension security of his employees, which employment organizations also have according to the Law on Social Security and the Rulings on its execution. This concerns the obligation to keep records and submit reports for the purposes of social security, especially the obligation to keep records of pension insurance for every employee for the full duration of his employment, as well as the obligation in so-called priority management, and obligations in connection with compiling claims for pensions submitted to the employer by employed workers and by workers employed by the entrepreneur on the basis of a contract on work activity and in connection with their timely submission to the competent social security agency. It should be noted that citizens, whose employer is another citizen with the nature of a so-called small institution, must submit applications for pension security benefits to the competent social security agency (i.e., formerly to the ONV [Okres National Committee], and according to the new legal regulations, valid as of 1 September 1990, to the Okres Social Security Administration).

Footnotes

1. For a commentary on the Ruling, see PRACE A MZDA 4/1990.

Small Privatization Law Explained

91CH0157A Prague HOSPODARSKE NOVINY in Czech 14 Nov 90 pp 8-9

[Article by Jaroslava Svobodova, doctor of jurisprudence: "Commentary on the Law on Small Privatization"]

[Text] On Friday, 26 October, HOSPODARSKE NOVINY published the text of the law on transferring some items owned by the state to the ownership of physical or legal entities. Today, we return to this law with a detailed commentary.

Section 1—Applicability of the Law

The law limits the transfer of items to the ownership of physical and legal entities to selected items owned by the state; in other words, it is not possible to transfer accounts receivable and property rights of the state.

As far as the right to manage is concerned, this concept is anchored in the Economic Code. This right is exercised fundamentally by that organization which is charged with executing tasks for the fulfillment of which the property in question is wholly or predominantly suited.

The right to manage can be generally characterized as the right on the basis of which a legal entity, who is not the owner, may exercise basic ownership rights pertaining to items which were entrusted to him by the owner and which such an entity has acquired as a result of its own activities (such rights include possession, utilization, and disposition). The right to manage thus represents a method for the execution of basic ownership rights not only directly by the owner, but by an organization established by him or by one of his organizational components which has legal standing. In so doing, the individual to whom the law on management applies acts in his own name and is fundamentally responsible for his actions.

By making it possible to apply the provisions of the law only to cases of the right to manage, its effectiveness is limited. It does not pertain to any legal entity which owns property. In other words, the object of privatization according to the law will not be items which are owned, for example, by a joint stock company, by other types of commercial associations, by cooperatives.

Section 2—Items Subject to Transfer of Ownership

This provision ties in to the provisions enumerated in Section 1 in that it renders more precisely the meaning of the words "some items." Items which form the operational portion of an enterprise or organization will be subject to transfer. The logic of this matter would indicate that it will not be possible to extract items from the operational component without which the organization would lose its character as a whole economic and property unit. Thus, for example, in the event of the transfer of a tailor shop, the object of the sale will be all of the equipment of this shop and it is out of the question to exclude, say, sewing machines, from the sale.

Real property includes plots of land and structures connected with the ground through firm foundations—all remaining items are considered movable property.

The provisions of Paragraph 2 were included in the law so as to guarantee the legal rights of individuals whose abodes or domiciles are located on the territory of another state. For example, there can be cases in which a

state enterprise, a budgetary or contributory organization, or a national committee may have entrusted the use of an operating unit to such individuals through a use agreement.

In cases of privatization, in accordance with this law, it is always necessary to be absolutely certain that the state enterprise or another organization has the undisputed and unrestricted right to manage with respect to the object of privatization. This is an absolutely essential application of the law. A second essential condition of application of the law is the certainty that items which could become objects of privatization are not items, the return of which could be claimed by their former owner or his legal heirs. In such cases, the effectiveness of the law is precluded.

Section 3—Ownership of Operational Units

The possibility of purchasing operating units is limited in two directions. On the one hand, it pertains to physical entities or legal entities which were established exclusively by physical persons. What is primarily meant here are all types of commercial companies, that is to say, joint stock companies, public commercial enterprises, companies with limited liability, limited partnerships, partnerships limited by shares.

Similarly, it is necessary to look at even special interest associations established by physical persons (this form of entrepreneurship is dealt with by an amendment to the Economic Code—see provisions of Section 360b of that law). The identified physical persons must be citizens of the CSFR. The law is fully applicable even to physical persons who were Czechoslovak citizens after 25 February 1948.

Section 4—The Method for Selling Operational Units: Public Auction

According to a proposed law put forward by the Czech National Council regarding the jurisdiction of organs of the Czech Republic in matters involving the transfer of some portions of state property to the ownership of physical or legal entities, the matter of the above transfers is under the jurisdiction of the Ministry for the Administration of National Property and Its Privatization of the Czech Republic. In the Slovak Republic, there will obviously be a similar arrangement. The above arrangement contains provisions giving the Ministry for the Administration of National Property and Its Privatization in the Czech Republic the authority to establish okres commissions for privatization of national property; in Prague, there will be a special commission, the so-called Prague Commission for the Privatization of National Property.

The activity of the above commissions is directed by the ministry, which also controls adherence to regulations regarding the transfer of some property components of the state to private ownership. Commissions shall be established in all okreses of the Czech Republic and on the territory of the Capital City of Prague. The Ministry for the Administration of National Property and Its Privatization in the Czech Republic also appoints the members of the above commissions and, in so doing, follows the recommendations of the appropriate national committees. It is anticipated that the commissions will be staffed by representatives of okres national committees, of organizations which are affiliations of entrepreneurs, of representatives of the Association of Cities and Communities [Svaz mest a obci], and by representatives of appropriate associations. The chairman will be elected by members of the commission. The law also directly establishes the method by which commissions will make decisions. A commission may adopt a decision only if more than one-half of its members are present and a valid decision requires two-thirds of the votes of those commission members who are present. Commission decisions may be based on the votes.

Insofar as the organizational, technical, and financial support for a commission is involved, these are matters for the appropriate okres national committee or for the National Committee of the Capital City of Prague.

Because a single commission for every okres could not master the preparation of documents and tasks connected with privatization in a relatively short period of time and also because individual members of commissions could not do justice to all specific situations in individual locations in the okreses, sections will be established in territorial regions, in local, city, and obvod national committees. The local, city, or obvod committees and organizations whose operating units are to be privatized will be represented in the sections. It is the task of the sections to prepare documentation for commission decisions and to support the actions connected with the sale of operating units. The activities of the sections are fully subordinate to the commissions.

The operating units which will be the objects of privatization are selected by the okres commission for privatization. After this selection has been completed, these commissions are obligated to discuss the proposals submitted by the operating units destined to be privatized with the appropriate national committees and, of course, also with the founder or establisher of the enterprise whose operating unit is to be privatized. Following the selection of operating units and, depending on the results of the above negotiations, the commission shall enter the operating units in a register of operating units which will be offered for sale.

All of the items which the listing must contain are outlined taxonomically, that is to say, that in the event the listing does not contain all data listed in Section 4, Paragraph 3, under letters a to f, and Paragraphs 4 and 5, of the law, an objection could arise with regard to its lack of validity. The okres commissions for privatization are responsible for seeing to it that the listings are posted on the official bulletin board of the national committee at least 30 days prior to the public auction. Prior to this publication, it is necessary for the okres commission to

have the listing confirmed by the Ministry for the Administration of National Property and Its Privatization of the Czech Republic.

Section 5—Participation in Public Auction

The admission price to attend a public auction will be established by the okres commission. It appears to be purposeful for this price to be set taking into account the conditions at the location of the auction, the expenditures which will be connected with the auction, and the value of the items which will be auctioned. Consequently, it will be suitable to negotiate this matter, either through the sections or directly with the appropriate local national committee. Moreover, the proposed law by the Czech National Council on the jurisdiction of the organs of the Czech Republic in matters pertaining to the transfer of some portions of state property to the ownership of physical or legal entities anticipates an entrance fee for examining the operating units involved. The yield derived from the entrance fee as well as from the fee charged for the right to participate in the auction (set by the law at 1,000 korunas [Kcs]) will be incorporated into the budgets of the okres national committees or of the National Committee for the Capital City of Prague.

Payment of the auction security deposit prior to holding the auction serves a number of purposes. On the one hand, it confirms the seriousness of the intent to purchase the operating unit; on the other hand, it affords at least a minimum verification of the financial capabilities of the interested party and, finally, it also serves as a sanction in the event that the purchaser should fail to pay the price for which the operating unit was auctioned within the stipulated time.

The auction security deposit will be deposited with an appropriate bank to the account of the national committee and the bank is to furnish proof of the deposit by issuing a receipt.

Next of kin are defined as relatives in the direct line and siblings in the secondary line; next of kin are also spouses for the duration of their marriage and other persons. Other persons are defined as next of kin insofar as they have a mutual family relationship or a similar relationship and if damage suffered by one of them were to be perceived by the other as damage suffered by them (for example, people living in a common household who are not related, but whose living together in a common household has resulted in the creation of a relationship similar to a family relationship—a common law marriage).

Section 6—Conduct of a Public Auction

The auctioneer is appointed by the okres commission for privatization, which is also responsible for organizing the auction. Every auction must be attended by an authorized member of the above commission, whose task it is to oversee the correct conduct of the operation and to ensure the creation of a protocol covering the conduct of the auction and its results. The protocol shall always list the name of the purchaser and the price for which the operating unit was sold. In the event no interest was shown in a unit and it was not auctioned, this fact is recorded in the protocol. The authorized member of the commission is also obligated to make sure that the protocol is signed by the auctioneer and by the representative of the organization whose operating unit was auctioned off.

Section 8—Upset Price of the Operating Unit

As far as the prices of plots of land and structures are concerned, their establishment is decreed by Proclamation No. 316/1990 Sb., which changes and augments Proclamation No. 182/1988 Sb., regarding prices of buildings, plots of land, stands of permanent vegetation, remittances for establishing the right of personal use, and compensation for the temporary use of plots of land, and the proclamation of the Ministry of Finance, Prices, and Wages of the Slovak Republic, which alters and augments Proclamation No. 205/1988 Sb. The method for determining the prices of machines, installations, and other basic assets is not specifically determined by the law. In other words, it could be set in accordance with the results of accounting documentation, or possibly by another method upon which the okres commission has agreed with the organization whose operating unit is the object of the auction.

Section 9—Purchase Price of an Operating Unit

Insofar as the purchase price is concerned, it includes the price of plots of land, structures, machines, installations, other basic assets, as well as the price of objects of gradual consumption and the price of inventories. To the extent to which inventories also contain objects of gradual consumption, those objects cannot be included in the price of inventories; this differs from those items which serve the operations of the unit involved. In practice, this will mean, for example, that in an operating unit of the hotel type, the purchase price will include bed linens which are used in current operations of the hotel. However, to the extent to which the hotel may have bed linens even in its reserve inventories, its price is not included in the price of the inventory. However, there is nothing to prevent the acquirer from concluding an appropriate agreement with the organization involved for the purchase of some items of gradual consumption in the inventory, if he is interested in making such a purchase.

The term object of gradual consumption clearly means small or short-term items, the acquisition price of which is less than Kcs5,000, without regard to its utility or, in the event the duration of its usefulness is less than 1 year, without regard to its acquisition price.

Section 10—Possibilities for Lowering the Upset Price

The above provision keeps in mind the case where it is not possible to auction a piece of property and thus

makes possible the so-called Dutch auction method. However, the lowest auction price is 50 percent of the upset price.

Section 11—Transfer of Ownership Involving Auctioned Items

Ownership in auctioned items transfers to the purchaser on the basis of the law; it is, thus, not necessary to conclude an agreement regarding the transfer of ownership. The law also speaks to the lack of validity of ownership transfer in the event that the purchaser fails to pay the price at which the item was auctioned. In this connection, an item is defined as the operating unit and the price is the upset price, which is made up of the price of the plots of land, structures, machines and installations, and other basic assets and the price of items of gradual consumption.

Insofar as the rights of the organization to collect for damages, based on the responsibility of the purchaser, and to issuance of property benefits are concerned, this right can be enforced in fulfilling the actual substance contained in the law (nonpayment of the price within 30 days of the auction) either in accordance with the Civil Code (Section 420) or in accordance with the Economic Code (Section 145). Whether the provisions of the Civil Code or the Economic Code are applied depends on the person of the purchaser. If the purchaser turns out to be a physical person who is not authorized to engage in entrepreneurial activity, then the procedure in claiming damages is handled in accordance with the Civil Code. According to Section 420 of this code, a citizen is responsible for damages he has caused by violating legal obligations and he can rid himself of responsibility, provided he can prove that he did not cause the damage in question. Nevertheless, a citizen is responsible for damages caused to an organization if the following conditions of responsibility are also fulfilled:

- an illegal action;
- if damages have occurred;
- if there are causative circumstances, that is to say, if there is a cause-and-effect relationship between the illegal activity and the arising of damages;
- if blame can be assessed.

Insofar as the method and extent of compensation is concerned, the Civil Code stipulates that actual damages are compensated for by returning matters to the status quo ante and, in the event this is not possible or purposeful, damages are paid in cash. An organization can assert its claim for compensation for damages with the appropriate court.

Unauthorized property benefits are anchored in Section 451 of the Civil Code. Responsibility for unauthorized property benefits is objective responsibility and its prerequisites are the violation of legal obligations which result in the unauthorized nature of the acquired benefits, the acquisition of property benefits, and the causative relationship between an illegal action and property benefits.

A citizen who acquires unauthorized property benefits at the expense of an organization must return such benefits; damages need not necessarily result. In this case, this is a matter of reparations involving that which was illegally acquired.

However, if the citizen who has acquired an operating unit at auction is registered as an entrepreneur, or represents a legal entity whose participants or associates are physical persons, then the claims resulting from responsibility for compensation of damages and for unauthorized property benefits are governed by the provisions of the Economic Code and the organization may assert its proposals in the appropriate economic arbitration proceedings.

According to Section 145 of the Economic Code, the following conditions must be fulfilled simultaneously to assign responsibility for damages:

- damages must have occurred;
- the responsible organization must have engaged in an illegal act;
- causative connections between the damages and the illegal act involved must have occurred;
- the responsible organization must be guilty.

The arising of damages is a fundamental prerequisite for assigning responsibility for damages, which are understood to be property damages which are quantifiable in terms of money or even compensatable in the form of payments in kind. According to Section 123 of the Economic Code, unauthorized property benefits are understood to be payments or other forms of property benefits which the organization has acquired or otherwise accepted and to which it was not entitled.

The content of responsibility for unauthorized property benefits is the obligation of the responsible organization to return to the authorized organization that which the unauthorized one accepted or acquired. The Economic Code stipulates that this must be done without delay and that the offending organization must be guided by the instructions contained in the law. If that which was illegally acquired cannot be returned, an item of equivalent kind must be returned. To the extent that not even this is possible, the responsible organization is obligated to restitute the price of that which was acquired without authorization and to do so according to the time of acquisition. The same also holds true in the event that although it may be possible to return that which was acquired in an unauthorized manner or in the event that an equivalent item can be returned, but this move is not purposeful. Even in that case, compensation is based on the time of acquisition.

In contrast to the price of an operating unit, which is documented in a special account of the appropriate organization of the Republic, the cost of inventories is paid to that organization whose operating unit was auctioned off. Provisions in Paragraph 2 do not apply to failure to pay the cost of inventories if the purchaser does not pay for the inventory within 30 days; the transfer of

ownership in the operating unit is valid, however, the purchaser is exposing himself to the danger of a court or arbitration recovery proceeding of the price of the inventory. According to the proposed law by the Czech National Council regarding the jurisdiction of organs of the Czech Republic in matters of the transfer of ownership of some components of state property to the ownership of physical or legal entities, it is anticipated that all the proceeds from the sale of operating units where the founders were local national committees and a certain stipulated percentage of the proceeds from the sale of other operating units will go to the appropriate national committee, with the remainder of the proceeds going to the Czech Republic. All of these proceeds, however, must be concentrated in special blocked accounts and will not be part of the budgets of national committees or of the Republic. National committees will not be able to have access to those funds in special accounts for a period of two years, apart from satisfying those claims and debts arising as a result of implementation of the law.

Among other things, the provisions of the above-cited proposal of the law of the Czech National Council can lead to the deduction that the appropriate national committee will be the appropriate organ of the Republic into whose special account the proceeds from the auction sale of any operating unit will be paid. The national committee will then transfer 70 percent of the proceeds to the special account of the Ministry for the Administration of National Property and Its Privatization of the Czech Republic in the case of operating units separated from state enterprises and their organizations, of which the national committee is not the founder. A similar arrangement is being proposed for the Slovak Republic.

Section 12—Responsibility for Auctioned Items; Validation of Ownership

Provisions in Paragraphs 1 and 2 relieve the organization which had the right to manage the auctioned-off operating unit of responsibility for it, particularly responsibility for any deteriorating operations of the unit and for its deficiencies. Regarding the definition of the concept of "operating unit" (movable and real property items which, as property items of operational components or organizations operating in the area of services, commerce, and other than agricultural production form or can form a unit which is a whole economic or property unit) and in view of the fact that the object of the ownership which passes, by law, to the purchaser is only this particular unit, it can be reasoned that the provisions of Paragraphs 1 and 2 do not apply to inventories, the sale of which is the object of an agreement between the organization and the purchaser. In practice, this will mean that, for example, the appropriate organization will be responsible for defects in the inventory.

Certification by the appropriate organ of the Republic (the okres commission for privatization) regarding the sale of an operating unit and its owner replaces the appropriate agreement on the transfer of ownership. The certification should obviously list the precise designation of the unit (the title, the location), the title and seat of the organization which previously had the right to manage the unit, a listing of plots of land, structures, machinery, installations, and other basic assets, the price which was paid for the unit, and the day that ownership of the unit transfers to the purchaser.

Section 13—Repeat Auction

Listing of things which were not successfully auctioned are compiled by okres commissions for privatization. Owners of operating units which are auctioned again can even become the state as well as individuals having foreign citizenship. Insofar as these foreign citizens participate in the auction, it is not possible to reduce the price of the unit by up to 80 percent of the upset price, as is the case involving auctions participated in only by physical persons who are citizens of the CSFR or who have been citizens of Czechoslovakia after 25 October 1948 or by legal entities whose participants or associates are exclusively the already-mentioned physical persons.

Section 14—Transfer of Land

The price of a plot of land upon which the operating unit is located is part and parcel of the price only in the event that it is a plot of land which the organization of which the operating unit is a part has the right to manage. Only in this case must the item be sold at the same time as the operating unit.

Section 15—The Right To Conclude Rental Agreements Covering Nonresidential Space

The law assigns owners of nonresidential space or those who have the right to use nonresidential space the duty of concluding an agreement with the purchaser of an operating unit regarding the renting of nonresidential space, for a period of at least two years. The law also permits the use of other time frames. Prior to concluding the above agreement, rental relationships between the owner or an organization which has the right to manage the facility and existing renters of nonresidential space must, of course, be terminated. Although the law does not specify any time limit during which these relationships must be arranged, the logic of the matter, however, would indicate that it is necessary to do so within a time frame which would make it possible to meet the deadline for initiating operations at the operating unit and that a new rental agreement should be concluded with the purchaser. In the event an operating unit was wholly or partially used for the sale of basic foodstuffs prior to being auctioned, it is necessary to adjust rental conditions within seven days of the auction in view of the provisions of Section 15, Paragraph 2, of the law.

As far as the conclusion of a new rental agreement covering appropriate nonresidential spaces is concerned, we recommend that it be concluded for a specific time—listing the date until which the rental is valid (according to the law, if the purchaser is not interested in a shorter period, the rental period is at least two years).

In the event the agreement is concluded for an indefinite period of time, we point out the danger which threatens the purchaser in this regard; if the agreement does not specify a special time limit for giving notice, then use can be made of the general time limit for giving notice as stipulated in the law on the rental and subleasing of nonresidential space, which is three months. In an agreement covering an unspecified period of time, therefore, it will be suitable to make sure of the required longer-term rental either by inserting a longer time limit for giving notice or possibly by inserting some kind of language which would guarantee the necessary duration of the rental agreement (for example, language indicating that the landlord will not give notice to the tenant for a period of two years). Rental agreements in conjunction with provisions in Section 3, Paragraph 3, of the law on the rental and subleasing of nonresidential space must be in written form and must contain the object and purpose of the rental, the level of the rental, the due date of the rental, and the method of payment, and, if the rental is not for an indefinite period, also the duration of the rental agreement. As far as the level of the rental is concerned, its setting is guided by the proclamation on contractual prices.

Section 16—The Possibility of Selling an Operating Unit Without Public Auction

The agreement to entrust an operating facility to someone for temporary use solved the so-called economic rental of an operation. A citizen who has an operating facility in this manner for his temporary use is clearly an entrepreneur in the sense of the law on entrepreneurship by private citizens. After 1 May 1990, operating facilities were permitted to be assigned for temporary use even to legal entities whose participants or associates are exclusively physical persons (see provisions of Section 3 of the law). This limitation is of significance in determining the regulations by which relationships between the person who concluded an agreement with the organization on entrusting the operating facility to him for temporary use shall be governed. In view of the above facts, these relationships are subordinated to the provisions of the economic law (see Section 18, Paragraph 2, of the law on private entrepreneurship on the part of citizens and provisions of Section 1 of the Economic Code). Consequently, the purchase agreement regarding the sale of an operating unit will be concluded in accordance with provisions of Section 347 of the Economic Code. Such an agreement must contain the following:

- identification of the transferred property;
- identification of the day of transfer;
- the purchase price.

It will also be purposeful to list the reason for the transfer and the rights and obligations connected with the transferred property, as well as their dispositions as part of the contract. The contract will, naturally, also list the titles and locations of the transferring organization and the acquirer.

For anyone interested in purchasing an operating unit which they have under economic rental, it is most important that the conditions stipulated by the law for the sale of operating units without public auction be fulfilled. Primarily, the individual interested must request the sale, at least five days prior to the auction. The interested party should have written proof of having made this request, certified by the appropriate okres commission for privatization so that no doubt could arise as to whether the sale was requested or not.

Furthermore, we consider it appropriate, and from the standpoint of protecting the interests of interested parties, we consider it to be purposeful, for an interestee to insist on concluding a purchase agreement with a time frame which would exclude the possibility that his rights to request the sale of an operating unit without an auction might be extinguished. In this connection, we emphasize that the time limit stipulated for the extinguishing of the above-mentioned rights can vary and depend on the day the auction is announced. Generally, the law stipulates that announcement of an auction must be accomplished at least 30 days prior to the day of the public auction (Section 4, Paragraph 6, of the law). In other words, this means that announcement can be accomplished even more than 30 days prior to the auction which, in turn, shortens the period during which the agreement on transfer of ownership of an operating unit must be concluded. If the auction was announced, for example, more than 65 days prior to being held, it would be practically impossible to apply the provisions of Section 16, Paragraph 1, since the interestee, in asserting his obligation to apply for sale of the unit at the latest five days prior to the day of the auction, would lose his right to conclude the appropriate agreement because the condition which stipulates that the agreement had to be concluded at the latest by 60 days from the day the auction is announced could not be met. However, announcing an auction at such a time could be qualified as thwarting the intent of the law.

With a view to safeguarding any possible evidence, it appears to be of maximum usefulness for interestees to have written documentation, even documentation involving the submission of a proposal to conclude a purchase agreement, that is to say, the proposal for concluding an agreement should be sent by registered mail to the appropriate organization immediately after communicating an interest in the sale of the operating unit involved.

If the organization were to delay concluding an agreement and the entrepreneur would thus be threatened with the extinguishing of his rights, the entrepreneur can assert his rights with the appropriate organ of economic arbitration.

Section 17-18—Obligations on the Part of the Acquirer of an Operating Unit

Ownership in an operating unit may be transferred only to physical persons who are citizens of the CSFR or who

were citizens after 25 February 1948 or to legal entities, participants of which or associates of which are exclusively these legal entities, for a period of two years from the date of the auction. These conditions do not apply if the operating unit was not auctioned off until the repeat auction; in this case, ownership of the operating unit can be transferred even to foreign nationals (this means physical persons or legal persons whose participants or associates are exclusively physical persons).

A fine of Kcs2,000 shall be levied for each working day that the duty, imposed by law, to continue the sale of basic foodstuffs, beginning on the seventh working day following the auction, is not met or the stipulation not to change the object of the activities of the facility up to one year is optional in character; the appropriate organ of the Republic, which will be the okres national committee, may levy the fine, but need not do so in all cases. The time limit of one year from the day the duty is violated, during which the fine can be levied, is a preclusive time limit, that is to say, after the expiration of this time, which is stipulated by law, the fine may no longer be levied.

Section 19—Liquidation of State Enterprises

The provisions of Section 19 rest upon an exception to the provisions of Section 22 of the law on state enterprises in which the reasons for rescinding enterprises are outlined. Reference to Section 26 of the law on state enterprises, which applies only to state enterprises which satisfy publicly beneficial interests, is clearly intended to show that, for purposes of the law, it is possible to use these provisions even to apply to basic types of state enterprises. In the event the founder of the state enterprise should decide to liquidate it for reasons that its existence is no longer justifiable as a result of the privatization of one or more of its operating units, the liquidation of the enterprise is undertaken. Justification of the continued existence of an enterprise must be judged in relationship to the social mission of the enterprise, that is to say, whether the enterprise is capable of continuing to be the manufacturer of goods (production, work, services) and whether it can carry out its entrepreneurial activities independently on the basis of managing for its own account.

The actual liquidation of the enterprise is governed by provisions of the Economic Code and is accomplished as follows:

The founder proposes that the liquidation of the state enterprise be recorded in the register of enterprises, along with the identity of the liquidator, whom he has named. The day on which the liquidation as well as the liquidator are recorded in the register of enterprises marks the extinguishment of the function of the director and the organs of the enterprise. The liquidator is entitled to act in the name of the state enterprise in matters connected with the liquidation and is obligated to communicate the entry of the enterprise into liquidation to all organizations, organs, and other entities which are impacted by this. The enterprise will close its accounts on the day the liquidation is initiated and will turn them over to the liquidator and to the appropriate organs. Thirty days after the liquidator has been entered in the enterprise register, he shall compile an initiating balance sheet and turn it over to the founder, together with a liquidation plan, a budget for the liquidation, and an inventory record resulting from an extraordinary inventory operation involving economic means, carried out as of the day the liquidation was initiated.

During the course of the liquidation, the liquidator is obligated to particularly concentrate funds in one account with one monetary institution, to conclude current affairs, to take care of payments due to the state budget, taxes, and fees, to take care of obligations and accounts receivable, to convert the property of the state enterprise to cash in the most economical and speediest way or to handle such property in accordance with regulations on managing national property, to provide the founder with quarterly and annual reports on the course of the liquidation, supported by quarterly and annual accounting balances. The liquidator will further compile a balance sheet as of the termination of the liquidation process and will submit it to the founder for approval, together with a final report on the entire course of the liquidation. For purposes of verifying and approving the accounting balance, the liquidator will turn over the final proceeds of the liquidation in accordance with the founder's instructions, will take care of the safe storage of any written material and accounting documents, and shall propose that the state enterprise be expunged from the enterprise register.

Section 20-27—Concluding Provisions

According to the law proposed by the Czech National Council on the jurisdiction of the organs of the Czech Republic in matters of transferring some items owned by the state to the ownership of physical or legal persons, the pertinent organs of the Republic, upon whose request employees of organizations and operating units are obligated to provide the requested information, documentation, and basic data, as well as access to operating units, are the Ministry for the Administration of National Property and Its Privatization of the Czech Republic, the okres commissions for privatization, and the Prague Commission for Privatization of National Property. In the Slovak Republic, arrangements will clearly be similar.

The provisions of Section 24 of the law, which state that the law does not impact on the effectiveness of Law No. 364/1990 Sb., passed by the Presidium of the Federal Assembly regarding the handling of the property of state enterprises, which latter law stresses the validity of restricting state enterprises in their ability to conclude agreements regarding the transfer of ownership of property which they are entitled to manage and restricting their ability to participate, with their investments, in joint enterprises or associations which are legal persons

or in stock companies or other commercial companies, provided such enterprises are not partially owned by foreign nationals.

Because ownership of operating units passes to purchasers as a result of the unit being knocked down to the highest bidder by the auctioneer and because certification of ownership rights is a matter for the appropriate organ of the Republic, the case mentioned in the above legal provision is not applicable. The situation is somewhat different when it comes to the sale of inventories, for which the purchaser pays the organization—in other words, in many cases, payment will be made even to the state enterprise. Such a sale of inventory can clearly not be qualified as a transfer, between state enterprises, of the right to manage national property—a type of transfer which occurs as a result of the fulfillment of obligations to deliver products, to deliver work, or for other purposes within the framework of the specified activity or in conjunction therewith (generally, this involves management). It will therefore be necessary to look at the sale of inventories from the standpoint of privatization of an operating unit as a transfer outside of normal management and then, however, in conjunction with the provisions of Section 24 of the law the transfer of inventory would require agreement by the founder (see Section 1, Paragraph 2, of Law No. 364/1990 Sb., of the Presidium of the Federal Assembly on handling property entrusted to the state enterprise: "Exemptions from the provisions of Paragraph 1 can be permitted by the founder in justified cases").

In view of the effective date of the law, which is set for 1 December 1990, it can be anticipated that auctions of operating units will not take place until the beginning of next year because a certain amount of time will be required to select the operating units, to make up a register of the units, and to prepare the auctions. Also, the 30-day time limit, which is stipulated for publishing the registers of operating units selected for privatization prior to the day of public auction, must also be taken into account.

Ownership Law Proposals Discussed

91CH0194B Prague ZEMEDELSKE NOVINY in Czech 8 Dec 90 p 6

[Unattributed article: "The Future of Agriculture Is at Stake—Comments on the Proposed Law on Ownership Relationships"]

[Text] Currently, there are several variations of the proposed law on land ownership and they are added to by a number of "quasi-proposals" which cannot be taken into account, either from the substantive standpoint or from the formal viewpoint. Nevertheless, there are two proposals which are dominant for now.

The first—the proposed law on modifying land ownership relationships—was worked out by the Federal Ministry of Economics (for the public, it is designated as the "federal" or "government" proposal).

The second—the proposed law on modifying ownership relationships and the utilization of land, buildings, and other agricultural property—was presented to the Federal Assembly as an initiative proposal by a group of parliamentary deputies. Because of its authors, it is also referred to as the "three T" law (Tyl, Tomasek, Tlusty). Today, it is being adopted even by the Czech Ministry of Agriculture and is, therefore, also known under the designation of "national."

The discussion which has arisen around both proposals is constantly gaining in intensity and is, on the whole, understandable because the law which will be passed will affect the entire character of agricultural production in a clearly decisive manner. Both proposing sides believe that, if the counterproposal is adopted, it will result in injustices and agricultural production will find itself in a blind alley. However, from the very beginning, the problem lies in the obvious ignorance of the proposals made by the "opponents," as well as in the fact that the proposals (particularly those that are "initiative"-type proposals) have undergone change over a short period of time. This was also the principal reason why the editors of ZEMEDELSKE NOVINY dared to publish both variations. Frankly said, the two versions do not even now appear to be definitive.

Because we promised our readers that we would try to compare both principal proposals, we are publishing an overview of the essential points of the proposals, the latest available versions of which we managed to obtain. In the subsequent text, we shall refer to the first proposal under the acronym FMH, the second will be assigned the acronym IN (initiative proposal).

It should first be stated that the FMH proposal was discussed in a regular markup proceeding and was approved by the governments of the Czech Republic and the Slovak Republic. The IN proposal was not discussed officially prior to being submitted to the Federal Assembly.

The goal of the FMH proposal is to solve the fundamental relationships of ownership and utilization of agricultural and forestry land, including the return of real estate to the original owners and to privatize the "remaining" land currently under state ownership.

The IN proposal, in addition to the above, also deals with determining the share held by landowners in the overall property of agricultural organizations.

Below, we list the methods by which the individual proposals would solve these thorny questions.

I. Return of Real Estate

FMH: All types of plots of land to be returned to all original owners.

IN: Everything returned to the original owners. Some plots of land would remain without compensation, for example, those where it is possible to extract certain

minerals or plots of land listed in the law on ground communications, telecommunications, railroads, etc.

II. Extent of Real Estate Restitution

FMH: The original owner will receive only that property which is owned by the state. In a dissimilar case, he will receive another piece of real estate in compensation; financial compensation will be paid only where the above is not possible (particularly with respect to buildings).

IN: The original owner will also receive property currently held by cooperatives and other legal and physical entities. The current owner has the right to financial compensation payable by the state.

III. Reasons for Returning Real Estate

FMH: The reason for returning real estate would be administrative actions, provided they were taken on the basis of the 1948 land reform law, but also on the basis of the revised land reform law of 1947.

In the case of donated property, if the donation was coerced.

In the case of court rehabilitations, the reason is also based on forfeiture of property.

In contrast to the IN proposal, the FMH proposal lists even other reasons: If a procedure was in violation of generally recognized human rights, or if it involved the takeover of state real estate on the basis of court rulings regarding the invalidity of state actions, or even if the action was illegal.

IN: Any type of administrative acts on the basis of which ownership rights were transferred to another owner following 1948 are reasons for returning real estate.

This includes all forms of donating.

In the case of court rehabilitations, this proposal lists only the forfeiture of individual items, not, however, the forfeiture of the property as a whole.

IV. Method of Returning Property

FMH: This proposal bases its method on the land reforms, according to which the property passed to the state in harmony with the law. Consequently, the administrative organization (in this case, the land office) will transfer the real property free of charge. The land office must have capable specialists who will identify plots of land, who will judge the justification of the claims, and will make sure that the required proof is presented.

(In other words, concluding an agreement and its registration by the state notary's office is no longer required which should lead to simplifying and speeding up the entire matter.)

IN: Is based on the assumption that the transfer of ownership to the state was invalid and, therefore, movable as well as real property is to be transferred to the owners directly by the responsible party. This is understood to be the current owner, even if the items in question were acquired through purchase not from the state, but from other persons. In items owned by the state, the transfer is to be carried out by the Ministry for the Administration of National Property and Privatization (this mostly concerns state farms).

(This is most likely a problem area because if the claim for the return of property is judged by the existing owner there will be many disputes which will have to be handled by the courts. This can result in delays.)

V. Return of Movable Property

FMH: Independent farmers will be compensated for inventory which no longer exists.

(This provision, which goes to the root of the other restitution laws, is justified by the need to support private farmers who can, understandably, not function without the necessary inventory.)

No compensation is offered for the use of individual items.

The right to a free transfer can be asserted by the owner within one year.

(This time frame is justified by the fact that the necessary documents will be assured by the above-mentioned land office.)

IN: To the extent to which such items exist, household appliances and personal use items are returned. Similarly, items intended for working the land are returned; of course, only if this land was not owned by the rightful owner.

Compensation is offered for loss of ownership of movable property. Moreover, a determination is made regarding the share of the means of production of an organization, held by the landowners, according to the ratio of the value of their land in terms of the overall land utilized by the organization. This share which corresponds to the value of the recomputed land is determined by multiplying the price of the land by the following coefficients:

- A coefficient of 0.7 if the land was rented to another person at the moment use or ownership rights in it were lost.
- By a coefficient of 0.7 if the owner was forcibly expelled from an agricultural settlement;
- in all other cases, a coefficient of one.

(Here, it is necessary to stress that the approaches used in both proposals with respect to this point differ completely and fundamentally. And let us add that according to the IN proposal, a part of the property owned by

agricultural cooperatives would thus pass to state ownership in the event that these cooperatives were using state land.)

The original owner can assert his rights to the free transfer of this property up to three years.

VI. Protecting the Land Fund

FMH: This proposal counts on valid laws regarding the protection of the agricultural land fund and protection of the forest land fund.

The previously mentioned land offices, who deal with all landowners, shall decide on adjustments to plots of land.

IN: This proposal establishes the Association of Landowners as an independent organization. Within their regions, these organizations are to make decisions regarding fundamental changes in the land fund, they approve proposals submitted by land offices dealing with modifications of plots of land.

VII. State Land

FMH: The land funds administer state land. They may, in conjunction with the principles of privatization, sell or rent state land. They also administer land whose owners are unknown.

(This proposal does not specify the method for privatizing state land. It is expected that privatization will be governed by ministerial plans.)

IN: State as well as cooperative land is administered by the Ministry for Administration of National Property and Privatization. The ministries may sell the land or turn it over for utilization. Sales are handled by auction of the land, together with the share of property connected with it.

(In effect, the proposal is counting on the fact that the upset prices of land of equal quality will vary in view of the varying sizes of the shares involved.)

VIII. Agricultural Organizations

FMH: The proposal does not include this question. The transformation of agricultural cooperatives is, thus, to be solved by the law on the cooperative movement, the organizational form is to be decided on by members of cooperatives.

IN: All agricultural organizations are to be transformed into so-called cooperatives of landowners (that is to say, they would include nonfarmers, who, understandably constitute the overwhelming majority). The highest organ of such a cooperative is the council of landowners.

Current agricultural organizations are not permitted to dispose of their property outside of the framework of current management in the absence of the adoption of statutes for the cooperative of landowners.

(Here, we draw attention to the fact—although it is surely obvious to the majority of our readers—of yet another very significant difference between both proposals, which is a particular bone of contention between working farmers and the authors of the IN proposal.)

IX. Use Rights

FMH: The proposal does not address the origin, the extinguishment, and the basic content of user rights, leaving them to be based on the civil code.

It does rescind the right to utilize agricultural land, forest land, the right of cooperative use of land by nonmembers of the cooperative, the right to the permanent utilization of state land, and the right to manage real estate which is under state ownership.

In the absence of an agreement, the law decrees a rental relationship. This can be terminated bilaterally. The owner is protected as long as it is not possible to break out his plot of land.

IN: The origin, extinguishment, and the partial content of the user right law is changed. The right to use land according to Law No. 123/1975 of the Collection of Laws is retained as long as it is not rescinded by agreement, by notice given by the owner, or by the adoption of statutes of the cooperative of landowners.

In the remaining cases, the proposal anticipates the conclusion of an agreement between the owner and the user.

HUNGARY

County by County Review of Unemployment Situation

91CH0168A Budapest NEPSZABADSAG in Hungarian 22 Nov 90 pp 1, 7

[Unattributed article: "Increasing Number of Unemployed"—first paragraph is NEPSZABADSAG introduction]

[Text] (From our correspondents) The new local governments are facing many problems. One of the most difficult ones is increasing unemployment. Lawmakers have not yet presented the employment bill to the parliament. Tension is increased by the fact that while the number of jobs is perceptibly shrinking, almost no new employment opportunities are being created in the present economic situation in which little investment is taking place. The local governments are hoping to participate in the Labor Council now being organized, and contribute to the solution of a gradually worsening situation. It is clear both in Budapest and in Pest county that many people are ending up in an impossible situation after losing their jobs, and that young people are facing a bleak beginning in their careers.

The data from the end of October show us that 1,953 persons received unemployment benefits in Budapest. Almost 5,000 unemployed persons inquired about job opportunities at employment offices this year. One can only guess how many persons are really out of work in Budapest, as Agnes Federer learned from Department Head Mrs. Imre Martonvari at the Jozsef Katona Street Office of Employment Counseling.

The number of applications and payments has gradually increased during the past months. Men between the ages of 31 and 50 constitute the absolute majority of the applicants. There are practically no applicants under the age of 20. Unfortunately, this does not indicate that the younger age group has no problem in finding steady employment, it only indicates that the regulations strictly specify that one must have been employed for 18 months before becoming eligible for unemployment benefits.

In Bekes county, the number of persons receiving unemployment benefits had a five-fold increase within one year, at present totaling more than 2,500, reported our county correspondent E. Peter Kovary. Of course, this number includes only those persons—most of them belonging to the 26-45-year age group—who lost their jobs and are eligible for continued benefits. The county employment office knows about an additional 1,500 unemployed persons and some 1,200 high school graduates who have not been able to find employment for a long time. According to forecasts, the number of persons eligible for unemployment benefits may increase by another 1,000 by year's end and, thus, we expect that the amount of 13.5 million forints paid out in October in benefits will have to be increased by at least 5 million forints.

Grim Career Outlook

Jasz-Nagykun-Szolnok county is one of Hungary's most threatened regions regarding employment, Laszlo L. Muranyi informed us. This statement is especially true of economically disadvantaged Kunsag and the Tiszafured area. Thirty-five percent of job seekers are unskilled laborers.

According to information received from the county employment office, 2,200 job seekers were registered in January, and this number grew to more than 4,500 by September. Only 451 persons were eligible for unemployment benefits in January, but they numbered 2,634 by the end of September. In this county, too, the situation of people at the beginning of their careers is a special problem. By the end of September 1990, 1,561 of them requested help from the office; their number was an all-time high.

In Csongrad county, the number of persons eligible for unemployment benefits exceeds 2,000. Our county correspondent, Istvan Tanacs, reported that according to statistical data, 0.7 jobs are available for each job seeker. However, this ratio is misleading, for the unemployed person does not always look for the kind of job that is offered. Only 56 persons are employed at public works in the county, and 99 persons are being retrained. Three-fourths of the retraining courses authorized by the Ministry of Labor have already begun, and the others will start soon.

Unskilled laborers, administrative workers, and persons at the beginning of their careers have the worst chances: 1,606 white-collar workers were looking for jobs while only 137 jobs were available. According to the figures, there were 821 jobs for skilled workers, and 1,491 applicants. There were 41 percent more jobs available during the same period last year.

According to most recent data, almost 700 to 800 persons in Hajdu-Bihar county are facing the ongoing problem of not having a job. As our county correspondent T. Janos Rac reported, the number of those who are eligible for unemployment benefits is almost 1,400, and both sets of data reflect a 50 percent increase in comparison with the situation at the end of the second quarter. It is becoming harder and harder to find a job, especially for sales people and hair dressers among the skilled workers, and for builders, machinists, and telecommunications technicians among trade school graduates. Regarding highly educated people, teachers, mechanical and production engineers, and agronomists find that their diploma has a limited value in finding jobs. Vacant jobs exist only for 50 percent of those eligible for unemployment benefits, mainly in the areas of construction, metallurgy, and light industry. A certain firm may occasionally look for a technical consultant, psychologist, or production analyst, while there is hardly any demand for invoice clerks, stenographers, or typists. Because of limited employment funds, there will be no significant job-creating investments in this county at this time.

Similarly, no investment is expected in Szabolcs-Szatmar-Bereg county in the near future either. The number of commuters returning home because their distant jobs are being eliminated, will significantly increase. More than 7,000 persons needed unemployment benefits in November. The county employment office's prognosis for the year's end is 18,000 unemployed and about 10,000 assisted persons.

The situation is rapidly deteriorating in Nograd county. Our correspondent, Marta Szendi reported that the number of people in need of unemployment benefits had a ten-fold increase, and that of job seekers an eight-fold increase within a year, while the number of vacant jobs decreased by two-thirds. At present, the county employment office has 3,350 persons on its register, and 2,900 persons are receiving assistance.

Employers are steadily decreasing their work force. To date, the office received notice of the elimination of 3,650 jobs this year. Only 900 of the 2,000 young persons who graduated this summer found employment. In the meantime, Nograd county's time bomb is steadily ticking, of course. More than 10,000 people commute

Number of persons drawing unemployment benefits in Budapest and each county.

every day from the Retsag, and Paszto vicinity in particular, to jobs located outside the county. The costs of transportation are rising, and there is no doubt about whom the employers of Vac and Budapest will let go first, but there are no jobs for them in Nograd county.

According to the report of our county correspondent Tamas Ungar, the number of persons living on unemployment benefits and allowances increased from 2,300 to 2,660 in Baranya county. The Mecsek Ore Mining Company is expected to lay off the greatest number of employees by year's end: only 2,500 of the 4,000 workers may stay on. The Bazis Construction Company, which is in a dire situation, is also expected to lay off several hundred workers. The Mobiusz Meat Company and the MEH [Trash and Garbage Collection Trust] are also preparing for layoffs. Other big companies of the processing industry also notified the Baranya county Employment Center about their planned layoffs early next year.

The Pecs regional center wants to extend the opportunities offered by public work. A few retraining courses started last year—e.g., in bank administration, industrial sewing, and grocery store salesmanship—proved successful. On the other hand, those who completed the courses in bricklaying and carpentry cannot find jobs. This year, 238 persons registered for 11 courses.

The number of unemployed persons decreased somewhat in Borsod [Abauj-Zemplen county], reported Attila Bujdos. At the end of October, more than 12,000 persons were registered, i.e., about 400 less than at the end of the previous month. On the other hand, the number of vacant jobs have, unfortunately, also decreased. There were still 1,515 jobs at the end of September, and this number shrunk to 1,274 by the end of October. As we learned, 5,285 persons receive unemployment benefits in Borsod-Abauj-Zemplen county.

Job Opportunities in Austria

The problems of employment also reached Gyor-Moson-Sopron county. Jozsef Ferenczi reported that at present, approximately 1,500 persons are receiving unemployment benefits in this region, which is considered to be better off than the others. Even earlier this year, far fewer people needed this unfortunate form of income, and last year their number was below 200. More than 3,600 persons showed up at Employment Center offices in October, which is many more than just a few months ago.

There are several private employment offices in the county seat, allegedly with a clientele not to be disparaged. Up-to-date Austrian job vacancy lists are available—though not inexpensively. It is another question of what the value of these are to a Hungarian entrepreneur without an Austrian work permit.

Not a single company in Tolna county announced massive layoffs, reported our correspondent Jozsef Hazafi.

In spite of this, 6,132 persons visited the county employment office in October, 23 percent more than in September.

At present, 1,650 persons receive unemployment benefits in Tolna [county]; the gross amount of assistance they receive averages 5,624 forints. Presently, 2,300 persons are looking for a job, and more than 400 of them receive no allowance at all. They are ineligible for unemployment benefits and, for lack of a social network, other kinds of assistance cannot be provided for them either.

At the end of October, 2,800 persons were looking for a job in Szekesfehervar, as our Fejer county correspondent Janos Czingraber reported. True, companies announced almost 900 vacant jobs, but supply and demand do not meet. The shortage is primarily of specialists. As we learned, 1,633 persons receive unemployment benefits in Fejer county.

The biggest problem is caused by Videoton's bankruptcy. Even previously, the big company had already reduced its work force from 20,000 to 16,000, and the figure announced now is around 12,000, which is an indication that they are still facing hard times.

According to the most recent data, 1,174 persons living on unemployment compensation and allowance are registered in Komarom-Esztergom county, reported our correspondent Bela Kovacs. This figure is expected to reach 1,300 by the end of November. According to the statistics of county employment offices, the number of job seekers is around 10,000. Each month, 100 to 150 persons apply for unemployment benefits. While the majority of job seekers were unskilled people earlier, they are from the educated class today. For the time being, mines in the county do not "produce" any labor surplus. At present, 340 to 350 persons receive assistance or allowance in Tatabanya.

Retraining in the Shortage Specialties

Unemployment is also increasing in Somogy [county]. According to a report by our correspondent Istvan Varga, the number of jobless persons was 2,278 at the end of October. Only 809 persons were unemployed during the same period last year. At present, 1,695 persons receive monthly unemployment benefits. It is noteworthy that 407 white collar workers are without jobs; 78 of them have the highest university degrees.

In Heves county, 1,386 persons were without jobs at the beginning of the year, and since then the number of registered job seekers reached 3,200, reported Janos Vagner Szabo. In January, there were still 126 vacant jobs for each 100 job seekers; today there are only 24. The number of persons receiving unemployment benefits grew from 152 to 1,326. The employment offices are extremely busy. White collar workers are in the worst situation: There are only 40 jobs for 840 applicants.

An institution of retraining, where approximately 80 shortage specialties will be taught, is planned to be opened next year in Eger and Gyongyos. For instance, Vilati's Eger plant signed a contract recently with Leonische Drahtwerke of Germany to manufacture cable bundles for Audi cars; this also means 200 new jobs.

At present, 700 to 750 unemployed persons are registered in Vas county. Our correspondent Zoltan Gyore reported that 520 persons received unemployment benefits in September, while 630 job vacancies were announced. Factories and plants are looking mainly for semiskilled and skilled workers.

The number of officially registered unemployed persons in Zala county grew from 550 early in the year to 1,622 by November, reported our county correspondent Laszlo Rab. There were still more than 1,000 available jobs in January; this figure has shrunk to 700 by today.

The number of persons receiving unemployment benefits increased six-fold; at present, 800 persons are taking advantage of benefits in the county. On the other hand, there are many who do not meet the "strict" eligibility requirements of being unemployed and stay home as dependents or do odd jobs in their village.

Mobile Telephone Network Placed in Service

91CH0162A Vienna DER STANDARD in German 17 Oct 90 p 19

[APA [Austria Presse-Agentur] report: "Hungary Now Has a Mobile Telephone Network"]

[Text] Budapest—The first mobile telephone network in East Europe was placed in service in Hungary on Monday. After a four-year trial, Westel Corporation received postal approval for installation of the "Nordic 450" system by Ericsson. The American enterprise, US West, holds a 49 percent interest, and the Hungarian government telecommunications company a 51 percent interest in Westel. Initially, 3,000 devices can be linked with the network in Budapest. Mobile telephones from Motorola and Ericsson are available for this in Budapest. A capacity expansion of an additional 3,000 subscribers is planned for the Spring of 1991. Service to other regions of the country is supposed to be expanded in 1993. In addition, a transmitter for the installation of a 900 MHz [Megahertz] mobile telephone network is supposed to be opened to bidding next year. The law governing frequency allocation that is about to be passed by the Hungarian Parliament is supposed to serve as the legal framework for this.

Installation of a device costs 75,000 forints (approximately 13,000 schillings). The devices themselves are in the price range of about 80,000 forints.

Oil Industry Structure To Follow Austrian Pattern

91CH0162B Vienna DER STANDARD in German 15 Oct 90 p 14

[Article by Reinhard Goeweil: "Hungary Wants To Pattern Its Oil Industry on the Example of the OeMV [Austrian Mineral Oil Administration]"]

[Text] Budapest—The civilian Hungarian government plans to completely restructure its mineral oil industry. The OeMV [Austrian Mineral Oil Administration] is serving as an example. The mineral oil and gas industry is currently divided up among three government monopoly organizations.

The OKGT [National Crude Oil and Natural Gas Trust] is the umbrella organization that also operates three refineries. The AFOR [Mineral Oils Commercial Enterprise] is responsible for marketing petroleum products, and Mineralimpex has the foreign trade rights for mineral oil and mineral oil products.

The Hungarian government now wants to combine all three organizations into one and convert it into a stock corporation. Trading on the stock exchange is possible. The OKGT is then supposed to function as a holding company. Mineralimpex is also supposed to retain the foreign trade monopoly.

A decision is supposed to be made by year's end. "It depends not only on economic parameters but also very strongly on political and personal connections," explains an official close to the government. "There is supposed to be something similar in Austria."

Thus, the OKGT tried to restrain the foreign trade right of Mineralimpex. Of course, Mineralimpex, the general manager of which, Toth, is even being considered as chief of the yet to be established stock corporation, won the power struggle. The OKGT feels pressured to have to purchase its oil and gas imports from the USSR with convertible rubles and at market prices starting in 1991. The cost stimulus is being somewhat absorbed by long-term barter agreements with the USSR.

Consolidating the refineries of the OKGT in an integrated concern would clearly increase their chances of survival. Independently operating refineries sustain big losses during the period of high oil prices because they cannot pass on the overall cost increase.

The marketing company, AFOR, has again pledged itself to a radical program of competition. Currently, there is a total of 600 service stations in Hungary. However, there are more than 4,000 in Austria. In addition to an inadequate supply, the quality of services is also not the best.

AFOR business manager Janos Sokorai said, "The monopoly situation of the AFOR has meant that customer service can only be described as a catastrophe." This leads to a more likely peculiar AFOR company goal: its market share is supposed to plummet from 70 percent currently to 30 percent during the next 10 years. However, this 30 percent is supposed to be competitive.

Porsche Importer Subsidiary Opens

91CH0162C Vienna DER STANDARD in German 19 Oct 90 p 21

[Article by Gerhard Hertenberger: "Porsche-Hungary Intends To Lead the Market: Concern Bank Also Participating"]

[Text] Budapest—Porsche Hungaria GmbH has commenced business in Budapest as an importer for Volkswagen, Audi, Seat, and Porsche, as a wholly owned subsidiary of Porsche-Holding in Salzburg with 20 million schillings initial base capital. It is the declared goal to become market leader of imported makes in the Hungarian automobile field. Thus, approximately 100 million schillings are being invested in the short term.

The Porsche-Bank in Salzburg is negotiating the establishment of a Porsche financing organization with Hungarian financial institutions. However, no subsidies or financial aid of any type are being sought from the Hungarian government; all of the projects in Hungary are being set up with Austrian capital.

As early as 1991, 2,000 to 2,500 new cars are supposed to be sold. It is the obvious goal of Porsche Hungaria to achieve a position similar to that of Porsche Austria.

Nagymaros Barrage: No Progress in Payment Dispute

91CH0162D Vienna DER STANDARD in German 19 Oct 90 p 21

[Article by hm: "Budapest Offered No Solutions in Conflict About Nagymaros"]

[Text] Vienna—The two days of talks between Donaukraft and Oviber [hydraulics construction firm] of Hungary regarding the conflict over paying for the "Nagymaros" Danube power station came to an end without tangible results. A representative of Donaukraft reported that Hungary did not present any proposals for a solution, and the meeting served primarily to inform the new general manager of Oviber who has been in office for one month. It did not influence the course of the proceedings of the court of arbitration. A written statement from Oviber may possibly be expected on Monday, because the 30 day deadline within which the defendants must comment on the arbitration petition expires this weekend.

As reported, Donaukraft petitioned an international court of arbitration in its own name and on behalf of its third party suppliers to bring about a decision in the conflict with Hungary. After termination of the work in November 1989, a claim amount of 3.848 billion schillings was established that was then reduced to 2.98 billion schillings pursuant to an evaluation of the damage that

was more generous in Austria's view. Of that amount, 951 million schillings have been paid during the contract term. However, the Hungarians only wanted to partially acknowledge the remaining 2 billion [schillings] and demanded new evaluations. The Court of Arbitration of the International Chamber of Commerce in Zurich was petitioned in the middle of September; the original 3.8 billion schillings are the basis of the complaint. An amicable resolution is basically possible during the procedure, but Hungary would really have to show itself conciliatory.

POLAND

Difficulties in Cooperation With France

91ES0251B Paris LE QUOTIDIEN DE PARIS in French 27 Nov 90 p 6

[Article by Yves Hervaux, special correspondent: "The Long March of French Employers to Warsaw"]

[Text] It's not easy to do business in Poland when the telephone doesn't work. But company managers from Ile-de-France [the region surrounding Paris] accompanied by the president of the regional council have just made their first contacts...and signed cooperation agreements....

Warsaw—A delegation of Paris-region company managers led by Pierre-Charles Krieg, president of the regional council, lands at Warsaw airport.

The mayor of the city, Stanislaw Wyganowski, has provided each executive an automobile with chauffeur and interpreter—a sign that the trip has been well organized and the Poles are going to do everything possible to attract French investors.

Arriving at the big Hotel Forum, one of the five best in the city, they all make haste to telephone their family or company to inform them of their arrival. And they are in for a nasty surprise, since they are told there is an eight to 12 hour wait for calls to France. A rude shock for someone thinking of setting up business here.

Never mind. One's spirits will pick up with a bite to eat and one of those supposedly famous Polish beers. Yes, but where? The hotel people say the only choices are to stay where they are or go to another hotel of the same sort. Nothing doing—everyone wants to get a taste of the city and mingle with the natives. On pressing the point, they are told to go to the tourist quarter at the site of the old city, magnificently reconstructed to look exactly as it did before the Germans destroyed it. So it's off for Krokodil, a famous Warsaw establishment. It is open, and only a few tables in the enormous cafeteria-style dining hall are occupied: There's plenty of room. The Frenchmen would like something to eat. Answer: There's nothing to eat. Well, then, how about some Polish beer? Impossible, there isn't any. Then what about the national drink, vodka? They place their orders. But there is no more Polish vodka either; all that remains is Bulgarian vodka. They take the Bulgarian.

Well-Organized Trip

So, scarcely debarked from the airplane, they have already learned everything there is to know about Poland today: There is nothing left to sell. Paralysis and stagnation are the order of the day. Later they learn that the markets are overflowing with beautiful fruits and vegetables, but no buyers are to be found. The produce is too expensive. The transition from communism to market economy is but a new tribulation for this long-suffering people. And yet, though working conditions in Poland may be difficult, the Parisian managers must realize that this is the right time to get a foot in the door and lay the groundwork. By the time they depart several days later, some have signed cooperation agreements. We talked with them: none regretted making the trip. Some went so far as to inform us confidentially that there actually is money in Poland. In the pockets of ex-nomenklatura types, no doubt.

The Ile-de-France regional council did its work well. Mrs. Chiara Corazza, technical adviser for international affairs, had worked on the trip for almost six months. Contacts between the French managers and their Polish counterparts were scheduled and the agendas prepared in advance.

The region also received special assistance from Alain Bry, the French ambassador to Warsaw, a man whose deep dedication to the promotion of French enterprises in Poland keeps him working tirelessly on the public relations front.

The Poles for their part seemed equally eager to fashion close ties with the Frenchman. Throughout these last three days—and despite the election campaign—Mayor Wyganowski and Bohdan Jastrzebski, voivode of Warsaw (equivalent of the prefect of Paris), have been omnipresent. At the conclusion of the visit, during the farewell dinner, one could see the mayor, the voivode and Pierre-Charles Krieg all serving drinks to their guests, proof that the ice had been broken, protocol had been tossed out the window, and bonds of friendship and real cooperation had been forged. Before the end of the year, Paris and the region will host a visit of the mayor of Warsaw.

Polish Demand

What the Poles had to say was perfectly straightforward. Help us, they said, to build the major infrastructure of transport, clean-up, environmental protection. Bring us your know-how in the hotel and restaurant industries, the enormous specialized domains of the food industry. Cooperate with our electronics, textiles and clothing industries. The communes of Warsaw could work with those in Ile-de-France on specific projects, the voivode suggested. Invest in the development of telecommunications facilities and electricity distribution systems. Warsaw's needs are immense. A message received loud and

clear by the French managers and the president of the Ile-de-France region, who nevertheless declined to comment on matters outside his competence. The French company managers came to work with the Poles, and when they left they were full of enthusiasm. "But we must temper that enthusiasm," one of them cautioned, because "economics forces us to weigh the pluses against the minuses." And truly it is no easy task to keep a French enterprise functioning in Poland today. First of all, there is the absence of communications facilities, a major drawback, though the French ambassador reassured them the telephone service would improve quickly. It is also difficult to operate in a country that doesn't know about checkbooks, where the laws are constantly changing, where standards are totally different from those in France.

Hence the vast need for training. Many Polish trainees have been offered the chance to visit France to see how our enterprises work. The usefulness of such exposure can be understood if one considers the fact that only 50 percent of the personnel in Polish construction companies are actually engaged in production—the rest being used to handle administrative chores. And that is only one example.

Initial Results

Under such conditions, the results obtained by the Paris-area enterprises in Warsaw were naturally less than spectacular, though far from insignificant. Pierre Trullas, manager of JCLD Equipements, a civil engineering firm, had only one wish: to find an office in Warsaw, after receiving assurances he could sell machinery. The same concern for getting a foothold in the Polish capital was shown by Christian Bringues, an import-export specialist who wants to bring French enterprises to Poland. Mr. Salomon, manager of a wholesale fur dealer, went even further, concluding the first agreement to sell Poles his "Paris-label" furs made from Chinese pelts. Similar success crowned the efforts of Guy Petit, manager of a mirror company that initially is going to sell its products direct but will manufacture them in Poland once Polish managers are trained.

The trip was also successful for Matra, which is probably going to get the contract to automate the Soviet-built subway system. Matra was able to turn to good account its experience with the same equipment in Budapest. And two hotel firms, Accor and the Envergure Company (Campanile Hotels), have laid the groundwork for further involvement.

The role played by Ile-de-France region and the city of Warsaw in all this was not to intervene directly, merely to put the executives from the two countries in contact. That extra little shove proved indispensable, given the formidable inroads already made by German manufacturers despite the dispute between the two countries. Germany and France may be on an equal footing in Warsaw, but the Germans are far ahead everywhere else in the country. "The Germans have a presence in 47 voivodeships," admits the French ambassador. "They have teams that make regular visits and buy up everything they can. Outside Warsaw, there are 500 Germans to one Frenchman—and the French are even behind the Italians." "I am willing to help all Frenchmen who want to come to Warsaw," says Alain Bry, "all the more since the future of the French language depends entirely on its economic implantation." That should serve as an answer to those who were astonished to find that televisions in the hotel rooms carried American and German stations but not a single French station. But it is also true that our satellites are incapable of relaying TV signals to the Poles. At all events, it is quite clear that France too has its work cut out for it.

Eastern Trade, Negotiations With Republics

91EP0181A Warsaw POLITYKA-EKSPORT-IMPORT in Polish No 12, Dec 90 pp 17-18

[Interview with Dariusz Ledworowski, deputy minister for foreign economic cooperation, by Jacek Poprzeczko; date and place not given: "Instead of Rubles...."]

[Text] [Poprzeczko] As of 1 January 1991 we shall base our trade with the Soviet Union on convertible currencies. How much will we lose thereby?

[Ledworowski] The term "loss" is not appropriate here. To be sure, trade will diminish, its structure will change, and price relations will change. But that will be not so much a loss as the cost of switching to the principles of trade accepted the world over and abandoning a system whose advantages have been largely only apparent. One result of that system has been the development of huge enterprises and entire industry subsectors geared to exports to the USSR and highly profitable in terms of an artificial price structure and artificial [nonconvertible] currency, but isolated from the world market and modern technology and ultimately constituting a grave encumbrance on the economy.

[Poprzeczko] Yet that artificial currency and those artificial prices have created real ties whose disruption, which actually is going on day by day, or remodeling will entail real cost. We shall also pay more for raw materials. That will be a serious burden to the economy, especially in the coming year, for which the prospects are not pink anyway. What concerns me is how much will that cost us altogether.

[Ledworowski] The answer is not easy, but I shall try to give it as clearly as possible. If the volume of this year's and next year's trade is calculated in terms of the dollar—because only then comparisons can be realistic—we anticipate that volume to decrease by about 40 percent, with a negative balance of trade of about $3 billion. What factors will be responsible for that negative balance of trade? We estimate that our export potential—which concerns chiefly construction machinery, equipment, and services—will decrease by about $1 billion. The cost of buying crude oil will increase by $600 to $700 million. Let us bear in mind, however, that the

[CEMA] rules for paying for crude oil at the world price averaged over the last five years so far have merely assuaged price fluctuations without offering protection against price increases. To be sure, under these old rules we would have paid less next year, but afterward we would have to pay more, because world prices are rising. As regards the purchasing costs of other raw materials, and chiefly natural gas, these will increase by $300 to $400 million.

[Poprzeczko] And how much will we lose owing to the deteriorating price ratio. We import chiefly raw materials, that is, commodities that can be sold on the world market and that have world prices, whereas our exports are dominated by machinery, equipment, and, in general processed products, for many of which world prices are not available, because no one outside the former socialist camp would want to buy them. If the USSR decides to buy them for dollars, then of a certainty at much lower prices.

[Ledworowski] Here the answer is very difficult, but of course we have performed certain calculations. Their results differ for different subsectors and goods. In some cases the dollar prices should be more advantageous than their ruble counterparts, but in more cases the converse will be true. Without going into these complex calculations, in a nutshell we can say that their overall results can be presented as follows: if we want to import the same quantities of raw materials as previously, we would have to export about 20 percent more machinery, equipment, and other finished products.

[Poprzeczko] So the cost of the transition to normalcy will be high. In this connection, complaints have been made—and in POLITYKA they were formulated by Pawel Bozyk in the article "The High Cost of Freedom"—that we have been too hasty in accomplishing this transition.

[Ledworowski] The economic program of the present government, announced in the fall of last year, contains a general plank on the need to base trade with the East on hard currency. That is because maintaining a separate currency clearing [the transferable ruble] system would conflict with that program's radical concept of marketization. Besides, we have experienced such conflicts this year. Within our already, roughly marketized economy there persist relics of the old system with is resource allocations, quotas, subsidizing of exports, and artificial prices. There is no freedom for exporters and importers, and hence also there is no healthy competition among them; what we have instead is compulsory deliveries, so to speak, ensuing from trade agreements and implemented on monopoly principles.

Still, we have not proposed to immediately abandon the old system, because of our awareness that this might cause too great a shock. The more so considering that the matter concerned not only us but also all our CEMA partners, however they may differ in the degree of advancement of their reforms, with whom suitable agreements will have to be reached. We plan the transition to the new system to begin on 1 January 1991, that is, coincident with the expiration of the present five-year plan period and the attendant economic agreements. Thus this date is neither a surprise nor a shock. We also believe that the transition should occur under certain circumstances convenient to everybody. Accordingly, at a CEMA session last January our delegation won the agreement that the transition should take place in stages and that no partner should attain unilateral advantages at the expense of other partners. On our recommendation, the principle of bilateral negotiations was also adopted. In contrast, the Soviet Union had proposed a multilateral system, that is, as it were, preserving the CEMA mechanism but basing it on different principles.

[Poprzeczko] Has not a certain opportunity been forfeited? As for the anachronistic and inefficient nature of the CEMA mechanism, that is not disputed by anyone. But the transition to free trade and hard currency clearings means to the CEMA countries a leap into the elemental free market world economy. Would we really manage better singly, on our own, in this elemental economy? It now looks like mutual trade among the East European countries will disintegrate. Could not some multilateral agreements, some common policy of maintaining and reviving this trade be useful?

[Ledworowski] I think that the agreements reached in Sofia were an attempt at such an understanding, since the principle of gradual transition to free trade, without unilateral gains and losses, was jointly adopted by the CEMA partners. As for the rule of bilateral negotiations, it ensues from the differences in the degree of advancement of the reforms. It makes no sense, for example, for Poland and Hungary to determine a list of goods to be traded, considering that free trade systems exist in both countries. On the other hand, such lists are needed in Polish-Soviet trade.

If we are to speak of lost opportunities or unutilized possibilities, please consider that at the time when the agreements had been reached in Sofia no one could have foreseen subsequent events. Yet, so much has happened since. The pace of economic disintegration of the USSR has quickened. The Soviet republics demanded and received the right to conduct their own foreign trade. The unification of Germany took place. The Sofia session had been attended by a GDR delegation whose stance was quite orthodox; this now seems like ages ago. Furthermore, we experienced an oil shock owing to the Persian Gulf conflict. Under the influence of all these events the USSR's position on foreign trade clearly evolved during the year. In the first half of the year the Soviet Union postulated that trade based on hard currency be cleared on the same principles as Soviet-Finnish trade for the next two years. The Polish approach was similar. But in the second half of the year, when it became clear that the USSR is experiencing grave payment difficulties, the Russians ceased to mention this idea. Gorbachev's July decree posed the issue clearly: as

of 1 January 1991 the Soviet Union will completely switch to hard currency settlements in trade with its East European partners.

[Poprzeczko] In other words, in the hierarchy of factors determining Soviet trade policy the need for foreign exchange became paramount.

[Ledworowski] That is what it looks like. It seems that under the influence of last year's events the USSR has ceased to consider economic integration with the countries of East Europe and begun to focus on the problems ensuing from its own internal disintegration and difficulties with balance of payments. Formerly the USSR used to repay its dollar obligations with revenues from exports to the West. Now it also wants to treat East European countries as a source of convertible currencies. Hence the change in the approach to the pace and forms of transition to free trade, as reflected in the failure to respect the Sofia agreements.

[Poprzeczko] But this means that we shall trade with the USSR in the same way as with the capitalist countries.

[Ledworowski] This cannot be tolerated by, first, the Soviet internal economic system and, second, the extent to which the Soviet economy is dependent on the East European countries. For the dependence of these countries on Soviet shipments is not one-sided, considering that they account for 85 percent of all Soviet imports of machinery. Polish exports alone account for 10 percent of all Soviet imports from CEMA countries. We have developed extensive coproduction ties with many Soviet plants, whose operation is dependent on these ties. This accounts for the, until recently, evident interest of the USSR in the clearing [transfer ruble] system, since its purpose is to avert a decline in reciprocal shipments. Now, however, the need for hard currencies is more imperative, and other needs also are a factor.

[Poprzeczko] What will be the technical aspects of this trade? I understand that it involves many problems considering that no one knows exactly just how powers will be divided between the central and republic authorities in the USSR and what will the extent of the autonomy of enterprises be....

[Ledworowski] In this connection we are determining at the central level a so-called indicative list of goods which will be the subject of Polish-Soviet trade. Our manufacturing and trading enterprises now have to—and that is good—explore their own direct contacts with Soviet enterprises, but they encounter a major obstacle. Namely, the Soviet partner often is well-intentioned and desires to sign a contract, but his liquidity is doubtful. To be sure, Soviet enterprises have now been allowed to retain a part of their hard currency earnings, but only a small part. Most of these earnings will be taken away by the central government, with a substantial amount used to repay foreign indebtedness. Well now, if some merchandise that we export, say, shoes, is placed on the indicative list, this means that there is a willing Soviet buyer and we grant an export permit. As for that Soviet buyer, he has a chance of getting an allocation of hard currency to make that purchase. This is not a rigid obligation, unlike under the former trade agreements, that we will certainly sell the shoes and they will certainly buy them. Everything depends on whether a willing buyer is found and the hard currency for him is provided. And since people need and want shoes, the money has to be found. But it should be borne in mind that this will be an extremely restricted list.

[Poprzeczko] And what guarantees of delivery will we have for Soviet raw materials, and principally for crude oil and natural gas?

[Ledworowski] There will be no guarantees of the old kind in the form of an intergovernmental agreement. As regards basic raw materials, both Soviet and ours, we believe that their shipments should be regulated by longterm agreements, but these will be simply agreements between enterprises. However, on the Soviet side considerable trouble is encountered nowadays in concluding such agreements. This is nothing surprising since they expect over there that oil extraction next year will decline by 60 to 80 million metric tons, whereas the total oil exports to the former socialist countries amounted to 100 million metric tons. Another problem is that the [Soviet] partner now agrees to barter deals in the case of crude oil only to a limited extent that is related to the needs of the petroleum industry. They now want chiefly to sell oil for cash.

[Poprzeczko] For cash we can buy oil elsewhere.

[Ledworowski] Yes, but given the current transport possibilities we could not import the quantities we need. To be sure, this situation will change soon, once we expand the Northern [Polnocny] Port. But I believe that importing certain quantities of crude oil from the USSR will always be profitable, both to us and to the USSR. The only problem is to negotiate a suitable price and new terms of delivery.

[Poprzeczko] A foreign trade based on hard currency is not easy if both parties are short of that currency. In such circumstances the proportion of various kinds of barter deals should be substantial. What are the possibilities in that field? That was surely one of the topics of the talks you had held during your recent travels to Uzbekistan and Kazakhstan.

[Ledworowski] The agreement for economic cooperation and trade with the USSR concluded last November allows establishing direct relations with the Soviet republics. A quite substantial part of foreign trade will now be handled by these republics. It is worth noting that they are interested in the clearing system. Thus what we failed to achieve at the all-Union level we have a great opportunity of achieving at the republic level. This would look as follows, e.g., trade between Poland and the Ukraine would be based on credit lines granted by a Polish bank and a Ukrainian one. Once every quarter of the year the accounts would be settled, and only the payment balance would be paid in hard currency. This

will of course entail many problems; in the beginning alone owing to the fact that the republic trade infrastructure—that of the ministry of foreign trade, foreign trade enterprises, the banks—is only starting to be organized. Moreover, it can be assumed that we will have a structural surplus in our trade with most of the Soviet republics, considering that our exports up to now have been paid for chiefly with shipments of crude oil and natural gas from Russia. But, on the other hand, such decentralization of trade also unlocks new import and export prospects, as I ascertained during those recent travels of mine. There is considerable interest in Polish goods, which until now have been reaching these republics only in small quantities because the central agencies in Moscow had had a monopoly on them. In the republics which I recently visited, but also in others, there would be willing buyers for Polish machinery for the light and food industry and in general for consumer industries, which have previously been neglected. They also are willing to buy textiles, of which we have a surplus.

[Poprzeczko] And what can be buy from them in return?

[Ledworowski] The possibilities are many. Kazakhstan is one of the richest republics, and it is endowed with practically every natural resource. They also offer agricultural products, e.g., durum wheat which we are importing from Canada. In Uzbekistan we already negotiated a preliminary major deal, the acquisition of cotton for the entire Polish cotton industry for next year in return for, among other things, textiles and mutton. Formerly, when the entire trade had been transacted at the central level, no one had considered exporting mutton to the USSR.

Unfortunately, the habit of centralization is still greatly handicapping our trade. But now there is no point in waiting for intergovernmental agreements. The easy-ruble trade has come to an end. Paradoxically, the transition to a higher form, that is to trade based on convertible currencies, must entail, at least during the initial period, expanding the lower forms, the linked transactions, that is, barter deals. This will be a terrifically labor-consuming trade, a pioneering labor, the winning anew of a market which we had previously felt so secure about. We must also bear in mind that our competitors will very energetically fight for that market.

A good example is being provided by many Polish private firms which have succeeded in blazing new commercial trails and concluding advantageous deals. We must create a new trading network, precisely in the republics. We should cut the strings tying us to Moscow and establish trade missions of enterprises wherever the opportunities for big deals exist. We must also open in the Soviet republics Polish government offices staffed by commercial advisors or commercial consuls. A major role is to be played by the representative offices of the Polish-Soviet Chamber of Foreign Trade.

[Poprzeczko] How will the decline in our trade with the USSR affect our foreign trade as a whole? How shall we fill this gap?

[Ledworowski] The share of exports to the USSR in our overall exports at present is only about 10 percent. We estimate that, despite the substantial decline of these exports, the value of our overall exports in dollars will increase by four percent next year. Thus there will be no collapse of foreign trade. This of course does not mean that everything is hunky-dory. The USSR is to us an unusually important partner and we must do everything for our mutual trade and cooperation to develop as best as they can. We are better prepared for this than our CEMA partners, because we are ahead of them by at least a year so far as institutional adaptation to free trade is concerned. However, as known, many of our enterprises exist in a difficult situation. At about 150 enterprises of the electrical machinery industry exports to the USSR accounted for 25 to more than 90 percent of output. These enterprises will be gravely imperiled unless they adapt themselves to the new requirements of the Soviet market or find other customers, whether in this country or abroad. The demand barrier, which is forcing Polish enterprises to institute adaptive changes, has previously been surmountable, because easy ruble exports could be always resorted to. Now this barrier will be completely closed, and on all sides at that. It is to be reckoned that this will cause a decline in output, and hence also to some extent a deepening of the recession. The change in the terms of trade with the USSR may also spur inflation: the prices of crude oil and natural gas will increase, and this will entail other price increases. On the other hand, however, subsidies for exports to the USSR will no longer be granted.

We definitely do not intend to ignore the cost of the transition to the new terms of trade. However, side by side with the problems, new opportunities are arising as well. Exploiting these opportunities is no longer as much the business of the government—although it will remain that, too—as that of our producers and businessmen.

[Poprzeczko] Thank you for the interview.

Coal Reserves for Near Future Seen as Plentiful

91EP0164A Warsaw RZECZPOSPOLITA (ECONOMY AND LAW supplement) in Polish 30 Nov 90 p I

[Article by Zbigniew Wyczesany: "Will It Be Warm in Winter?: No Coal Shortage"]

[Text] (C) At the Central Planning Office [CUP], reporters were presented with the government forecast of the socioeconomic situation. As we noted earlier, CUP monitoring is based on selected firms and observations of specific economic and social trends in the principal domains of our present-day life.

The information made available to the press by the directors of the Central Planning Office Franciszek

Krawczynski and Zbigniew Kopyra points to a quite favorable forecast for the next few months.

There is a possibility that average daily extraction during November and December will amount to about 575,000 metric tons of coal on work days and 150,000 on Saturdays. Given this assumption, the yearly extraction will be at the level of about 149 million metric tons (compared with 177.6 million in 1989).

The decline in industrial output, combined with the higher levels of coal inventories among customers (in the power industry it is 0.8 million metric tons higher than in 1989) and suppliers (coal reserves are 1.0 million metric tons greater than in 1989) warrant the assumption that coal supplies for industry (with the exception of coking plants) will remain satisfactory until year end.

On the other hand, some problems in the municipal and consumer sectors are to be expected, especially in the presence of persistent low temperatures. These sectors consume chiefly the lump-sized varieties of power coal, whose share in sales is steadily declining. Black coal exports in 1990 will total about 28 million metric tons.

In the event of a mild winter it can be expected that industrial inventories of coal will decrease only slightly compared with their state as of the end of last September when they amounted to 13.5 million metric tons, of which 6.7 million [belonged to] the power industry. In 1990 the output and consumption of electrical energy in this country shrank markedly. It is expected that the output of electrical energy in 1990 will have reached about 135.5 billion kWh, i.e., about 7.0 percent less than the actual output in 1989. The coal inventories of the power industry are at an exceptionally favorable level. It is estimated that by year end they will amount to about 4.0 million metric tons, compared with the peak year-end inventories of 4.8 million tons in 1963, given a yearly consumption of 56.5 million tons.

It also is estimated that during the fall-winter peak load of 1990/1991 the favorable power-generating situation that has arisen, owing to the decline in economic activity, will continue. During this period no brownouts should be expected, not even if extreme weather sets in.

Given the decline in coal-fired electricity generation the exceptionally high inventories of black coal with a high calorific value that have been accumulated by the power industry should serve to avoid coal shortages until year end. No problems with brown coal—for which the power industry is practically the sole customer (97 percent of extraction)—should be encountered either, even though the extraction of that kind of coal during the first half of this year was lower by 2.5 million metric tons than during a like period last year and amounted to 33.9 million metric tons.

The situation as regards the heat supply to urban areas by thermoelectric power plants has not, unfortunately, improved. Considerable shortages occur in Warsaw, Gdynia, Lublin, Bialystok, and Silesia. The situation is worsened by the high rate of breakdowns of heat supply systems. In the event prolonged frosts set in, interruptions in the supply of heat to consumers are possible.

As regards the supplies of natural gas, it appears that the situation will look as follows: the basic imports of natural high-methane gas [will] amount to 5.1 billion cubic meters (outcome of preliminary talks with the USSR). In addition, about 1.4 billion cubic meters can be acquired by barter in return for food exports [to the USSR] in 1991. Altogether, gas imports totaling about 6.6 billion cubic meters from the USSR are likely. This still leaves a shortfall of about 1.5 billion cubic meters, which may be obtained from Yugoslavia (reexportation of natural gas from the USSR) and through intensification of domestic extraction. Talks with the Yugoslav side are advanced, and the Soviet side has expressed its consent to the reexportation of the gas to Poland.

Slight curtailments of supplies to industrial customers may arise only if low temperatures persist over a long period of time. In the event that temperatures ranging from - 10 to - 15° Celsius persist for a long period of time, supplies to industrial customers should be curtailed, as in the previous years.